APPENDIX A

STAFF REPORT: INITIAL STATEMENT OF REASONS

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

Proposed Regulation Order

State of California

AIR RESOURCES BOARD

Release Date: August 2, 2016

PROPOSED REGULATION ORDER

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

Amend Subchapter 10 Climate Change, Article 5, sections 95802, 95811, 95812, 95813, 95814, 95830, 95831, 95832, 95833, 95834, 95840, 95841, 95841.1, 95851, 95852, 95852.1, 95852.2, 95853, 95856, 95857, 95858, 95870, 95890, 95891, 95892, 95893, 95894, 95895, 95910, 95911, 95912, 95913, 95914, 95920, 95921, 95922, 95941, 95943, 95972, 95973, 95974, 95975, 95976, 95977, 95977.1, 95978, 95979, 95980, 95980.1, 95981, 95981.1, 95983, 95985, 95987, 95990, 96014, and Appendix C, title 17, California Code of Regulations.

Add new sections 95803, 95835, 95859, 95871, 95944, 95945, new Appendix D, and new Appendix E, 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 proposed amendments are shown in <u>underline</u> to indicate additions and ~~strikethrough~~ to indicate deletions. "***" indicates that sections of regulation not printed are not changed.

§ 95802. Definitions.

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

~~(1)~~ "Account Viewing Agent" means an individual authorized by a registered entity to view all the information on the entity's accounts contained in the tracking system.

~~(2)~~ "Accounts Administrator" means the entity acting in the capacity to administer the accounts identified in this regulation. This may be ARB, or could be an entity ARB enters into a contract with.

~~(3)~~ "Activity-Shifting Leakage" means increased GHG emissions or decreased GHG removals that result from the displacement of activities or resources from inside the offset project's boundary to locations outside the offset project's boundary as a result of the offset project activity.

~~(4)~~ "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.

~~(5)~~ "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)).

~~(6)~~ “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.

~~(7)~~ “Air Dried Ton of Paper” means paper with 6 percent moisture content.

~~(8)~~ “Air Pollution Control District” or “Air Quality Management District” or “Air District” means any district created or continued in existence pursuant to the provisions of Part 3 (commencing with Section 40000) of Division 26 of the Health and Safety Code.

~~(9)~~ “Allowance” means a limited tradable authorization to emit up to one metric ton of carbon dioxide equivalent.

~~(10) “Almond” means the edible seed of the almond (*Prunus amygdalus*).~~

~~(11)~~ “Alternate Account Representative” means an individual designated pursuant to section 95832 to take actions on an entity’s accounts.

~~(12)~~ “Aluminum and aluminum alloy billet” is a solid bar of nonferrous metal, produced by casting molten aluminum alloys, that is suitable for subsequent rolling, casting, or extrusion. Aluminum alloy is an alloy in which aluminum is the predominant metal and the alloying elements may typically be copper, magnesium, manganese, zinc, or other elemental additives or any combination of elements added.

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

~~(13)~~ “Annual Allowance Budget” means the number of California Greenhouse Gas Allowances associated with one year of the Cap-and-Trade Program in subarticle 6.

~~(14)~~ “ARB Offset Credit” means a tradable compliance instrument issued by ARB that represents a GHG reduction or GHG removal enhancement of one metric ton of CO_2e. The GHG reduction or GHG removal enhancement must be real, additional, quantifiable, permanent, verifiable, and enforceable. ARB offset credits may only be issued for GHG emission reductions or GHG removal enhancements that occur during a “Reporting Period,” as defined in this section.

~~(15)~~ “Aseptic Preparation” is a system in which a product is sterilized before filling into pre-sterilized packs under sterile conditions.

~~(16)~~ “Aseptic tomato paste” means tomato paste packaged using aseptic preparation. As~~e~~eptic paste is normalized to 31% tomato soluble solids (TSS). As~~e~~eptic paste normalized to 31% TSS = (%TSS - raw TSS)/(31 - raw TSS).

~~(17)~~ “Aseptic whole and diced tomatoes” means whole and diced tomatoes packaged using aseptic preparation. Sum of Aseptic Whole and Diced Tomatoes = Who~~t~~le Tomatoes + (Diced Tomatoes x 1.05).

~~(18)~~ "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.

~~(19)~~ “Asset Controlling Supplier” means any entity that owns or operates inter-connected electricity generating facilities or serves as an exclusive marketer for these facilities even though it does not own them, and is assigned a supplier-specific identification number and system emission factor by ARB for

the wholesale electricity procured from its system and imported into California. Asset Controlling Suppliers are considered specified sources.

~~(20)~~ “Assigned Emissions” or “Assigned Emissions Level” means an amount of emissions, in CO_2e, assigned to the reporting entity by the Executive Officer under the requirements of section 95103(g) of MRR.

~~(21)~~ “Associated Gas” or “Produced Gas” means a natural gas that is produced in association with the production of crude oil.

~~(22)~~ “Auction” means the process of selling California Greenhouse Gas Allowances, along with allowances from External Greenhouse Gas Emissions Trading Systems with which California has linked its Cap-and-Trade Program pursuant to subarticle 12, by offering them up for bid, taking bids, and then distributing the allowances to winning bidders.

~~(23)~~ “Auction Purchase Limit” means the limit on the number of allowances one entity or a group of affiliated entities may purchase from the share of allowances sold at a quarterly auction.

~~(24)~~ “Auction Reserve Price” means a price for allowances below which bids at auction would not be accepted.

~~(25)~~ “Auction Settlement Price” means the price announced by the Auction Administrator at the conclusion of each quarterly auction. It is the price which all successful bidders will pay for their allowances and also the price to be paid to those entities which consigned allowances to the auction.

~~(26)~~ “Authorized Project Designee” means an entity authorized by an Offset Project Operator to act on behalf of the Offset Project Operator. The Authorized Project Designee must be a Primary Account Representative or Alternate Account Representative on the Offset Project Operator’s Holding Account.

~~(27)~~ "Aviation Gasoline" means a complex mixture of volatile hydrocarbons, with or without additives, suitably blended to be used in aviation reciprocating engines. Specifications are as stated in MRR, section 95102(a).

~~(28)~~ “Baked potato chips” means a potato chip made from a potato dough that is rolled to a specified thickness, cut into a chip shape and then toasted in an oven.

~~(29)~~ “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.

~~(30)~~ “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.

~~(31)~~ “Banking” means the holding of compliance instruments from one compliance period for the purpose of sale or surrender in a future compliance period.

~~(32)~~ “Barrel of Gas Processed Equivalent," with respect to reporting of onshore natural gas processing as defined in MRR 95150(a)(3), means the volume of associated gas, waste gas, and natural gas processed converted to barrels at 5.8 MMBtu per barrel.

~~(33)~~ "Barrel of Oil Equivalent," with respect to reporting of oil and gas production, means barrels of crude oil produced, plus associated gas and dry gas produced, converted to barrels at 5.8 MMBtu per barrel.

~~(34) “Bathroom tissue” means a thin, soft, lightweight, sanitized paper used in bathrooms for personal cleanliness. Bathroom tissue is usually sold as a long strip of perforated paper wrapped around a paperboard core.~~

~~(35)~~ “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) R~~registered as a motor vehicle fuel or fuel additive under 40 CFR Part 79 (June 27, 1994);

~~(B) A~~a mono-alkyl ester;

~~(C)~~ ~~M~~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)~~ ~~I~~intended for use in engines that are designated to run on conventional diesel fuel; and

~~(E)~~ ~~D~~derived from nonpetroleum renewable resources.

~~(36)~~ "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.

~~(37)~~ "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.

~~(38)~~ "Biomass-Derived Fuels" or "Biomass Fuels" or "Biofuels" means fuels derived from biomass.

~~(39)~~ "Biomethane" means biogas that meets pipeline quality natural gas standards.

~~(40) "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.~~

~~(41)~~ “Boiler” means a closed vessel or arrangement of vessels and tubes, together with a furnace or other heat source, in which water is heated to produce hot water or steam.

~~(42)~~ “Budget Year” means the calendar year to which an annual allowance budget is assigned pursuant to subarticle 6.

~~(43)~~ “Business-as-Usual Scenario” means the set of conditions reasonably expected to occur within the offset project boundary in the absence of the financial incentives provided by offset credits, taking into account all current laws and regulations, as well as current economic and technological trends.

~~(44)~~ *[Staff is reviewing the benchmark for this product and may propose a revision to this definition as a result. Any proposed revision would be circulated for a 15-day comment period.]* “Butter” means the product made by gathering the fat of fresh or ripened milk or cream into a mass that also contains a small portion of other milk constituents.

~~(45)~~ “Buttermilk" means the low-fat portion of milk or cream remaining after the milk or cream has been churned to make butter.

~~(46)~~ *[Staff is reviewing the benchmark for this product and may propose a revision to this definition as a result. Any proposed revision would be circulated for a 15-day comment period.]* “Buttermilk powder” means milk powder obtained by drying liquid buttermilk that was derived from the churning of butter and pasteurized prior to condensing. Buttermilk powder has a protein content of no less than 30%. It may not contain, or be derived from, nonfat dry milk, dry whey, or products other than buttermilk, and contains no added preservatives, neutralizing agents, or other chemicals.

~~(47)~~ “Calcined coke” means petroleum coke purified to a dry, pure form of carbon suitable for use as anode and other non-fuel applications.

~~(48)~~ *[Staff is reviewing the benchmark for this product and may propose a revision to this definition as a result. Any proposed revision would be circulated for a 15-day comment period.]* "Calcium Ammonium Nitrate Solution" means calcium nitrate that contains ammonium nitrate and water. Calcium ammonium nitrate solution is generally used as agricultural fertilizer.

~~(49)~~ “Calendar Year” means the time period from January 1 through December 31.

~~(50)~~ “California Balancing Authority” shall have the same meaning ascribed in section 95102(a) of MRR.

~~(51)~~ “California Electricity Transmission and Distribution System” means the combination of the entire infrastructure within California that delivers electric power from electric generating facilities to end users over single or multiple paths.

~~(52)~~ “California Greenhouse Gas Emissions Allowance” or “CA GHG Allowance” means an allowance issued by ARB and equal to up to one metric ton of CO_2 equivalent.

“Calyx” or “Calyces” means the leaf-like structures composing the outermost part of a flower. These structures often enclose and protect a bud and may remain after a fruit forms.

~~(53)~~ “Cap” means the total number of California GHG Allowances that the Executive Officer issues over a given period of time.

~~(54)~~ “Cap-and-Trade Program” means the requirements of this article.

~~(55)~~ “Carbon Dioxide” or “CO_2” means the most common of the primary greenhouse gases, consisting on a molecular level of a single carbon atom and two oxygen atoms.

~~(56)~~ “Carbon Dioxide Equivalent" or “CO_2 equivalent” or “CO_2e” means the number of metric tons of CO_2 emissions with the same global warming potential as one metric ton of another greenhouse gas. Global warming potential values shall be determined consistent with the definition of Carbon Dioxide Equivalent in MRR section 95102(a).

~~(57)~~ “Carbon Stock” means the quantity of carbon contained in an identified GHG reservoir.

~~(58)~~ “Carbon Dioxide Supplier” or “CO_2 Supplier” means (a) facilities with production process units located in the State of California that capture a CO_2 stream for purposes of supplying CO_2 to another entity or facility~~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 located in the State of California that extract or produce a CO_2 stream for purposes of supplying CO_2 for commercial applications or that extract a CO_2 stream in order to utilize it for geologic sequestration, (c) exporters (out of the State of California) of bulk CO_2 that export CO_2 for the purpose of geologic sequestration, (d) exporters (out of the State of California) of bulk CO_2 that export for purposes other than geologic sequestration, and (e) importers (into the State of California) of bulk CO_2. This source category is focused on upstream supply and is not intended to place duplicative compliance obligations on CO_2 already covered upstream. The source category does not include transportation or distribution of CO_2*;* purification, compression, or processing of CO_2; or on-site use of CO_2 captured on-site.

~~(59)~~ “Carbonation” means the process of dissolving carbon dioxide in water.

~~(60)~~ “Casein” means a group of proteins found in milk which is coagulated by enzymes and acid to form cheese.

~~(61)~~ “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.

~~(62)~~ "Cheese" means a food product derived from milk that is produced in a wide range of flavors, textures, and forms by coagulation of the milk protein casein.

~~(63)~~ “Cogeneration” means an integrated system that produces electric energy and useful thermal energy for industrial, commercial, or heating and cooling purposes, through the sequential or simultaneous use of the original fuel energy. Cogeneration must involve onsite generation of electricity and useful thermal energy and some form of waste heat recovery. Some examples of cogeneration include: (a) a gas turbine or reciprocating engine generating electricity by combusting fuel, which then uses a heat recovery unit to capture useful heat from the exhaust stream of the turbine or engine; (b) Steam

turbines generating electricity as a byproduct of steam generation through a fired boiler; (c) Cogeneration systems in which the fuel input is first applied to a thermal process such as a furnace and at least some of the heat rejected from the process is then used for power production. For the purposes of this article, a combined-cycle power generation unit, where none of the generated thermal energy is used for industrial, commercial, or heating and cooling purposes (these purposes exclude any thermal energy utilization that is either in support of or a part of the electricity generation system), is not considered a cogeneration unit.

~~(64)~~ “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.

~~(65)~~ “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.

~~(66)~~ “Combustion Emissions” means greenhouse gas emissions occurring during the exothermic reaction of a fuel with oxygen.

~~(67)~~ “Complexity weighted barrel” or “CWB” means a metric created to evaluate the greenhouse gas efficiency of petroleum refineries and related processes. The CWB value for an individual refinery is calculated using actual refinery throughput to specified process units and emission factors for these process units. The emission factor is denoted as the CWB factor and is representative of the greenhouse gas emission intensity at an average level of energy efficiency, for the same standard fuel type for each process unit for production, and for average process emissions of the process units across a sample of refineries. Each CWB factor is expressed as a value weighted relative to atmospheric crude distillation~~. A refinery’s CWB value for allocation will be its $CWB_{process}$ value adjusted for off-sites and non-crude~~

~~sensible heat using the following equation: CWB = 1.0085*$CWB_{process}$ + 0.327*Total Refinery Input + 0.44*Non-Crude Input. This calculation will rely on data submitted under section 95113 of the MRR, the definition of $CWB_{process}$ under section 95113(l) of MRR, and the definitions of Total Refinery Input, and Non-Crude Input given under section 95102(c) of MRR.~~

~~(68)~~ "Compliance Account" means an account created by the accounts administrator for a covered entity or opt-in covered entity with a compliance obligation, to which the entity transfers compliance instruments to meet its annual and ~~triennial~~full compliance period compliance obligations.

~~(69)~~ "Compliance Instrument" means an allowance or offset, issued by ARB or by an External Greenhouse Gas Emissions Trading System to which California has linked its Cap-and-Trade Program pursuant to subarticle 12, or sector-based offset credit. Each compliance instrument can be used to fulfill a compliance obligation equivalent to up to one metric ton of CO_2e.

~~(70)~~ "Compliance Obligation" means the quantity of verified reported emissions or assigned emissions for which an entity must submit compliance instruments to ARB.

~~(71)~~ "Compliance Offset Protocol" means an offset protocol adopted by the Board.

~~(72)~~ "Compliance 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.

~~(73)~~ "Compressed natural gas" or "CNG" means natural gas in high-pressure containers that is highly compressed (though not to the point of liquefaction), typically to pressures ranging from 2900 to 3600 psi.

~~(74) "Concentrated milk" means the liquid food obtained by partial removal of water from milk. The milkfat and total milk solids contents of the food are not less than 7.5 and 25.5 percent, respectively. It is pasteurized, but is not processed by heat so as to prevent spoilage. It may be homogenized.~~

~~(75)~~ "Condensed milk" means the food obtained by partial removal of water only from a milk product.~~mixture of milk and safe and suitable nutritive~~

~~carbohydrate sweeteners.~~ The finished food contains ~~not less than 8 percent by weight of milkfat, and~~ not less than 28 percent by weight of total milk solids. ~~The quantity of nutritive carbohydrate sweetener used is sufficient to prevent spoilage. The food is pasteurized and may be homogenized.~~ The composition of the milk solid components and nutritional content in condensed milk retains the same relative ratios as the parent fluid product except for minor composition changes due to processing.

~~(76)~~ “Conflict of Interest” means, for purposes of this article, a situation in which, because of financial or other activities or relationships with other persons or organizations, a person or body is unable or potentially unable to render an impartial Offset Verification Statement of a potential client’s Offset Project Data Report, or the person or body’s objectivity in performing offset verification services is or might be otherwise compromised.

~~(77)~~ “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.

~~(78)~~ “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.

~~(79)~~ "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.

~~(80)~~ “Contract Description Code” means the alphanumeric code assigned by an exchange to a particular exchange product that differentiates the product from others traded on the exchange.

~~(81)~~ “Corn chip” is a food product made from masa (ground corn dough) that is rolled to a specific thickness, cut into a chip shape, lightly toasted in an oven, and then deep fried.

~~(82)~~ “Corn curl” is a food product made from a deep-fried extrusion of masa (ground corn dough).

~~(83)~~ “Counterparty” means the opposite party in a bilateral agreement, contract, or transaction.

~~(84)~~ “Covered Entity” means an entity within California that has one or more of the processes or operations and has a compliance obligation as specified in subarticle 7 of this regulation; and that has emitted, produced, imported, manufactured, or delivered in 2009 or any subsequent year more than the applicable threshold level specified in section 95812(a) of this rule.

~~(85)~~ "Cream" means that portion of milk, rich in milk fat, which rises to the surface of milk that is left standing or which is separated from milk by centrifugal force.

~~(86)~~ “Crediting Baseline” refers to the reduction of absolute GHG emissions below the business-as-usual scenario or reference level across a jurisdiction’s entire sector in a sector-based crediting program after the imposition of greenhouse gas emission reduction requirements or incentives.

~~(87)~~ “Crediting Period” means the pre-determined period for which an offset project will remain eligible to be issued ARB offset credits or registry offset credits for verified GHG emission reductions or GHG removal enhancements.

~~(88) “Dairy product solids for animal feed” means modified dairy products (permeates and products derived there from) processed for animal consumption obtained by the removal of water, protein and/or lactose, and/or minerals from milk.~~

~~(89)~~ “Data Year” means the calendar year in which emissions occurred.

~~(90)~~ “Deforestation” means direct human-induced conversion of forested land to non-forested land.

~~(91)~~ “Dehydrated chili pepper” means chili pepper that has been dehydrated to no more than 12 percent water by volume in order to extend the shelf life and to concentrate the flavor. Chili peppers are the fruit of plants from the genus *Capsicum*, and are members of the nightshade family *Solanaceae*.

~~(92)~~ “Dehydrated garlic” means garlic that has been dehydrated to no more than 6.8 percent water by volume in order to extend the shelf life and to concentrate the flavor. Garlic is an onion-like plant *(Allium sativum)* ~~of southern Europe~~ having a bulb that breaks up into separable cloves with a strong distinctive odor and flavor.

~~(93)~~ “Dehydrated onion” means onion that has been dehydrated to no more than 5.5 percent water by volume in order to extend the shelf life and to concentrate the flavor. Onion (*Allium cepa*) is a plant that has a fan of hollow, bluish-green leaves and the bulb at the base of the plant begins to swell when a certain day-length is reached.

~~(94)~~ “Dehydrated parsley” means parsley that has been dehydrated to no more than 5 percent water by volume in order to extend the shelf life and to concentrate the flavor. Parsley (Petroselinum crispum) is a species of *Petroselinum* in the family *Apiaceae*.

~~(95)~~ “Dehydrated spinach” means spinach that has been dehydrated to no more than 7 percent water by volume in order to extend the shelf life and to concentrate the flavor. Spinach (*Spinacia oleracea*) is an edible flowering plant in the family of *Amaranthaceae*.

~~(96) “Delicate task wiper” mean tissue-based wipers used for the delicate cleaning of lenses, surfaces, and equipment in labs, research facilities, hospitals, and manufacturing settings.~~

~~(97)~~ “Delivered Electricity” means electricity that was distributed from a PSE and received by a PSE or electricity that was generated, transmitted, and consumed.

~~(98)~~ "Deproteinized whey" means products manufactured through the cold ultrafiltration of sweet dairy whey, removing a portion of the protein from sweet whey to result in a non-hygroscopic, free-flowing and clean flavored powder containing greater than 80% carbohydrate (lactose) levels.

~~(99)~~ “Diced Tomatoes” is the food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. The tomatoes are ~~peeled and~~ diced or crushed, and shall

have had the stems and cal~~i~~yc~~i~~es removed~~ and shall have been cored, except where the internal core is insignificant to texture and appearance~~.

~~(100)~~ “Diesel Fuel” means Distillate Fuel No. 1 and Distillate Fuel No. 2, including dyed and non-taxed fuels.

~~(101)~~ “Direct Delivery of Electricity” or “directly delivered” has the same meaning as ascribed to MRR section 95102(a).

~~(102)~~ “Direct GHG Emission Reduction” means a GHG emission reduction from applicable GHG emission sources, GHG sinks, or GHG reservoirs that are under control of the Offset Project Operator or Authorized Project Designee.

~~(103)~~ “Direct GHG Removal Enhancement” means a GHG removal enhancement from applicable GHG emission sources, GHG sinks, or GHG reservoirs under control of the Offset Project Operator or Authorized Project Designee.

~~(104)~~ “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).

~~(105)~~ “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).

~~(106)~~ “Distillate Fuel No. 4” ~~is~~means a distillate fuel oil with a minimum flash point of 131 °F made by blending distillate fuel oil and residual fuel oil~~, with a minimum flash point of 131 F~~.

~~(107)~~ “Distillate Fuel Oil” means a classification for one of the petroleum fractions produced in conventional distillation operations and from crackers and hydrotreating process units. The generic term “distillate fuel oil” includes

kerosene, kerosene-type jet fuel, diesel fuels (Diesel Fuels No. 1, No. 2, and No. 4), and fuel oils (Fuel Oils No. 1, No. 2, and No. 4).

~~(108)~~ “Distilled spirit” means a spirit made from the separation of alcohol and a fermented product.

~~(109)~~ “District Heating Facility” means a facility that, at a central plant, produces hot water, steam, and/or chilled water that is distributed through underground pipes to buildings and facilities connected to the system that are not part of the same facility. District Heating Facility does not include a facility that produces electricity.

~~(110)~~ "Dolime" is calcined dolomite.

~~(111)~~ “Dry Gas” means a natural gas that is produced from gas wells not associated with the production of crude oil.

~~(112) “Ductile iron pipe” means pipe made of cast ferrous material in which a major part of the carbon content occurs as free graphite in a substantially nodular or spherroidal form. Pipes are used mainly to convey substances which can flow.~~

~~(113)~~ “Dry color concentrate” means precipitated solids extract from fruits and vegetables whose uses are for altering the color of materials and/or food. “Ductile iron pipe” means pipe made of cast ferrous material in which a major part of the carbon content occurs as free graphite in a substantially nodular or spheroidal form. Pipes are used mainly to convey substances which can flow.

~~(114)~~ “Early Action Offset Credit” means a tradable credit issued by an Early Action Offset Program that represents a GHG reduction or GHG removal enhancement equivalent to one metric ton of CO_2e and meets the requirements of ~~section 95990(c)~~the Program for Recognition of Early Action Offset Credits.

~~(115)~~ “Early Action Offset Program” means a program that meets the requirements of ~~section 95990(a)~~the Program for Recognition of Early Action Offset Credits and is approved by ARB.

~~(116)~~ “Early Action Offset Project” means an offset project that is registered with an Early Action Offset Program, has been issued early action offset credits, with the exception of reforestation offset projects, which must be registered with an Early Action Offset Program but might not have been issued early action offset credits, and is in good standing with the Early Action Offset Program.

~~(117)~~ “Early Action Reporting Period” means a reporting period in which GHG reductions and/or GHG removal enhancements are reported under an Early Action Offset Program.

~~(118) “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.~~

~~(119)~~ “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.

~~(120)~~ “Electrical Distribution Utility(ies)” <u>or “EDU”</u> means an entity that owns and/or operates an electrical distribution system, including: 1) a public utility as defined in the Public Utilities Code section 216 (referred to as an Investor Owned Utility or IOU); or 2) a local publicly owned electric utility (POU) as defined in Public Utilities Code section 224.3 or 3) an Electrical Cooperative (COOP) as defined in Public Utilities Code section 2776, that provides electricity to retail end users in California.

~~(121)~~ “Electricity Generating Facility” means a facility that generates electricity and includes one or more generating units at the same location.

~~(122)~~ “Electricity Importers” deliver imported electricity. For electricity that is scheduled with a NERC E-Tag to a final point of delivery inside the state of California, the electricity importer is identified on the NERC E-Tag as the purchasing-selling entity (PSE) on the last segment of the tag’s physical path with the point of receipt located outside the state of California and the point of delivery located inside the state of California. For facilities physically located

outside the state of California with the first point of interconnection to a California balancing authority's transmission and distribution system when the electricity is not scheduled on a NERC e-Tag, the importer is the facility operator or scheduling coordinator. Federal and state agencies are subject to the regulatory authority of ARB under this article, and include Western Area Power Administration (WAPA), Bonneville Power Administration (BPA) and California Department of Water Resources (DWR). For electricity that is imported into California through the CAISO Energy Imbalance Market, the electricity importer is identified as the~~Electricity Importers include~~ EIM Participating Resource Scheduling Coordinator~~s~~ serving the EIM market whose transactions result in electricity imports into California and the EIM Purchaser.

~~(123)~~ "Eligible Renewable Energy Resource" has the same meaning as defined in Section 399.12 of the Public Utilities Code.

~~(124)~~ "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.

~~(125)~~ "Emissions Data Report" or "greenhouse gas emissions data report" or "report" means the report prepared by an operator or supplier each year and submitted by electronic means to ARB that provides the information required by MRR. The emissions data report is for the submission of required data for the calendar year prior to the year in which the report is due. For example, a 2013 emissions data report would cover emissions and product data for the 2013 calendar year and would be reported in 2014.

~~(126)~~ "Emissions Efficiency Benchmark" or "GHG emissions efficiency benchmark" means a performance standard used to evaluate GHG emissions efficiency between and amongst similar facilities or operations in the same industrial sector.

~~(127)~~ “Emulsion” means a mixture of water, crude oil, associated gas, and other components from the oil extraction process that is transferred from an existing platform that is permanently affixed to the ocean floor and that is located outside the distance specified in the “offshore” definition in section 95102 of MRR, to an onshore petroleum and natural gas production facility.

~~(128)~~ “End User” means a final purchaser of an energy product, such as electricity, thermal energy, or natural gas not for the purposes of retransmission or resale. In the context of natural gas consumption, an “end user” is the point to which natural gas is delivered for consumption.

~~(129)~~ “Energy Imbalance Market” “or “EIM” means the operation of the CAISO’s real time market to manage transmission congestion and optimize procurement of energy to balance supply and demand for the combined CAISO and EIM footprint.

~~(130)~~ “Energy Imbalance Market Participating Resource Scheduling Coordinator” or “EIM Participating Resource Scheduling Coordinator” means the participating resource owner or operator, or a third-party designated by the resource owner or operator, that is certified by the CAISO and enters into the pro forma EIM Participating Resource Scheduling Coordinator Agreement, under which it is responsible for meeting the requirements specified in the CAISO Tariff on behalf of the resource owner or operator.

“Energy Imbalance Market Purchaser” or “EIM Purchaser” means an entity that purchases energy through the EIM market to either serve California load or to deliver or sell the purchased energy to an entity serving California load.

~~(131)~~ “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.

~~(132)~~ “Enhanced Oil Recovery” or “EOR” means the use of certain methods such as steam (thermal EOR), water flooding or gas injection into existing wells to increase the recovery of crude oil from a reservoir. In the context of this rule, EOR also applies to injection of critical phase carbon dioxide into a crude oil reservoir to enhance the recovery of oil.

~~(133)~~ “Enterer” means an entity that imports, into California, motor vehicle fuel, diesel fuel, fuel ethanol, biodiesel, or non-exempt biomass-derived fuel or renewable fuel and who is the importer of record under federal customs law or the owner of fuel upon import into California, if the fuel is not subject to federal customs law. Only enterers that import the fuels specified in this definition outside the bulk transfer/terminal system are subject to reporting under the regulation.

~~(134)~~ “Entity” means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, or government agency.

~~(135)~~ “Environmental Impact Assessment” means a detailed public disclosure statement of potential environmental and socioeconomic impacts associated with a proposed project. Such disclosure is a matter of public record and provides detailed information to public agencies and the general public about the effect that a proposed project is likely to have on the environment and ways in which the significant effects of such a project might be minimized, and to indicate alternatives to such a project.

~~(136) "Evaporated milk" means the liquid food obtained by partial removal of water only from milk. It contains not less than 6.5 percent by weight of milkfat, not less than 16.5 percent by weight of milk solids not fat, and not less than 23 percent by weight of total milk solids. Evaporated milk contains added vitamin D as prescribed by the Code of Federal Regulations, Title 21. It is homogenized. It is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage.~~

~~(137)~~ “Exchange” means a central marketplace with established rules and regulations where buyers and sellers meet to conduct trades.

~~(138)~~ “Executive Officer” means the Executive Officer of the California Air Resources Board, or his or her delegate.

~~(139)~~ “Expected Settlement Date” is a date specified in a transaction agreement on which all requirements in the transaction agreement are expected to be settled, exclusive of any contingencies specified in the agreement.

~~(140)~~ “Expected Termination Date” is a date specified in a transaction agreement on which all requirements in the transaction agreement are expected to be completed, exclusive of any contingencies specified in the agreement.

~~(141)~~ “Exported Electricity” shall have the same meaning ascribed in section 95102(a) of MRR.

~~(142)~~ “External Greenhouse Gas Emissions Trading 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.

~~(143) “Facial Tissue” means a class of soft, absorbent, disposable tissue papers that is suitable for use on the face.~~

~~(144) (A)~~ “Facility,” unless otherwise specified in relation to natural gas distribution facilities and onshore petroleum and natural gas production facilities as defined in section 95802(a), means:

~~a~~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.

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

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

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

~~(145)~~ "Fiberglass Pulled" means the quantity of glass removed from the melting furnace in the fiberglass manufacturing process where "Fiberglass" is defined

as insulation products for thermal, acoustic, and fire applications manufactured using glass.

~~(146)~~ “Final Point of Delivery” means the sink specified on the NERC e-Tag, where defined points have been established through the NERC Registry. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the final point of delivery is the location of the load. Exported electricity is disaggregated by the final point of delivery on the NERC e-Tag.

~~(147)~~ “First Deliverer of Electricity” or “First Deliverer” means the owner or operator of an electricity generating facility in California or an electricity importer.

~~(148)~~ “First Point of Receipt” means the generation source specified on the NERC e-Tag, where defined points have been established through the NERC Registry. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating facility or unit, or group of generating facilities or units. Imported electricity and wheeled electricity are disaggregated by the first point of receipt on the NERC e-Tag.

~~(149)~~ “Flash Point” of a volatile liquid is the lowest temperature at which it can vaporize to form an ignitable mixture in air.

~~(150)~~ "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.

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

~~(151)~~ “Fluorinated Greenhouse Gas” means sulfur hexafluoride (SF6), nitrogen trifluoride (NF3), and any fluorocarbon except for controlled substances as defined at 40 CFR Part 82 (May 10, 1995), subpart A and substances with vapor pressures of less than 1 mm of Hg absolute at 25 C. With these exceptions, “fluorinated GHG” includes any hydrofluorocarbon; any perfluorocarbon; any fully fluorinated linear, branched, or cyclic alkane, ether,

tertiary amine, or aminoether; any perfluoropolyether; and any hydrofluoropolyether.

~~(152)~~ “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.

~~(153)~~ “Forest Buffer Account” means a holding account for ARB offset credits issued to forest offset projects. It is used as a general insurance mechanism against unintentional reversals, for all forest offset projects listed under a Compliance Offset Protocol.

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

~~(154)~~ “Forest Owner” means the owner of any interest in the real (as opposed to personal) property involved in a forest offset project, excluding government agency third party beneficiaries of conservation easements. Generally, a Forest Owner is the owner in fee of the real property involved in a forest offset project. In some cases, one entity may be the owner in fee while another entity may have an interest in the trees or the timber on the property, in which case all entities or individuals with interest in the real property are collectively considered the Forest Owners, however, a single Forest Owner must be identified as the Offset Project Operator.

~~(155)~~ “Fossil Fuel” means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material for the purpose of creating useful heat.

~~(156)~~ “Fractionates” means the process of separating natural gas liquids into their constituent liquid products.

~~(157)~~ *[Staff is reviewing the benchmark for this product and may propose a revision to this definition as a result. Any proposed revision would be circulated for a*

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

~~(158)~~ "Fried potato chip" means a thin slice of potato that is deep fried until crunchy.

~~(159)~~ "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.

~~(160)~~ "Fuel Analytical Data" means data collected about fuel usage (including mass, volume, and flow rate) and fuel characteristics (including heating value, carbon content, and molecular weight) to support emissions calculation.

~~(161)~~ "Fuel supplier" means a supplier of petroleum products, a supplier of biomass-derived transportation fuels, a supplier of natural gas including operators of interstate and intrastate pipelines, a supplier of liquefied natural gas, or a supplier of liquefied petroleum gas as specified in MRR.

~~(162)~~ "Fugitive Emissions" means those emissions which are unintentional and could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

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

~~(163)~~ "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.

~~(164)~~ "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.

~~(165)~~ "Gaseous Hydrogen" means hydrogen in a gaseous state.

~~(166)~~ “Geologic Sequestration” means the process of injecting CO_2 captured from an emissions source into deep subsurface rock formations for permanent ~~long-term~~ storage.

~~(167)~~ “Global Warming Potential” or “GWP” means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas, i.e., CO_2.

~~(168)~~ “Granulated refined sugar” means white refined sugar (99.9% sucrose), made by dissolving and purifying raw sugar then drying it to prevent clumping.

~~(169)~~ “Grape Juice concentrate” means the liquid from crushed grapes, from the botanical genus *Vitas*, processed to remove water.

~~(170)~~ “Grape seed extract” means the extract from grape seeds containing concentrations of proanthocyanidin.

~~(171)~~ “Greenhouse Gas” or “GHG” means carbon dioxide (CO_2), methane (CH_4), nitrogen trifluoride (NF_3), nitrous oxide (N_2O), sulfur hexafluoride (SF_6), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases as defined in this section.

~~(172)~~ “Greenhouse Gas Emission Reduction” or “GHG Emission Reduction” or “Greenhouse Gas Reduction” or “GHG Reduction” means a calculated decrease in GHG emissions relative to a project baseline over a specified period of time.

~~(173)~~ “Greenhouse Gas Emissions Source” or “GHG Emissions Source” means, in the context of offset credits, any type of emitting activity that releases greenhouse gases into the atmosphere.

~~(174)~~ “Greenhouse Gas Removal” or “GHG Removal” means the calculated total mass of a GHG removed from the atmosphere over a specified period of time.

~~(175)~~ “Greenhouse Gas Removal Enhancement” or “GHG Removal Enhancement” means a calculated increase in GHG removals relative to a project baseline.

~~(176)~~ “Greenhouse Gas Reservoir” or “GHG Reservoir” means a physical unit or component of the biosphere, geosphere, or hydrosphere with the capability to store, accumulate, or release a GHG removed from the atmosphere by a GHG sink or a GHG captured from a GHG emission source.

~~(177)~~ “Greenhouse Gas Sink” or “GHG Sink” means a physical unit or process that removes a GHG from the atmosphere.

~~(178)~~ “Gypsum” means a mineral with the chemical formula $CaSO_4 \cdot 2H_2O$.

~~(179)~~ “HD-5” or “Special Duty Propane” has the same meaning as contained in MRR.

~~(180)~~ “HD-10” has the same meaning as contained in MRR.

~~(181)~~ “Hold” in the context of a compliance instrument, is to have the serial number assigned to that instrument registered into an account assigned to an entity that is registered into the California Cap-and-Trade Program or an External Greenhouse Gas Emissions Trading System to which California has linked its Cap-and-Trade Program pursuant to subarticle 12, or an account under the control of the Executive Officer.

~~(182)~~ “Holding Account” or “General Holding Account” means an account created for each covered entity, opt-in covered entity, or voluntarily associated entity to hold compliance instruments.

~~(183)~~ "Horsepower Tested" means the total horsepower of all turbine and generator set units tested prior to sale.

~~(184)~~ "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.

~~(185)~~ “Hydrocarbon” means a chemical compound containing predominantly carbon and hydrogen.

~~(186)~~ “Hydrofluorocarbon” or “HFC” means a class of GHGs consisting of hydrogen, fluorine, and carbon.

~~(187)~~ “Hydrogen” means diatomic molecular hydrogen, the lightest of all gases~~, occurring chiefly in combination with oxygen in water; it exists also in acids, bases, alcohols, petroleum, and other hydrocarbons~~.

~~(188)~~ "Imported Electricity" means electricity generated outside the state of California and delivered to serve load located inside the state of California. Imported electricity includes electricity delivered across balancing authority areas from a ~~first point of receipt~~generation source located outside the state of California, to the first point of delivery located inside the state of California, having a final point of delivery in California. Imported electricity includes electricity imported into California over a multi-jurisdictional retail provider's transmission and distribution system, or electricity imported into the state of California from a facility or unit physically located outside the state of California with the first point of interconnection into a California balancing authority's transmission and distribution system. Imported electricity includes electricity that is a result of cogeneration located outside the state of California. Imported electricity does not include electricity wheeled through California, defined pursuant to MRR section 95102(a). Imported electricity does not include electricity imported into the CAISO balancing authority area to serve retail customers that are located within the CAISO balancing authority area, but outside the state of California. Imported Electricity does not include electricity imported into California by an Independent System Operator to obtain or provide emergency assistance under applicable emergency preparedness and operations reliability standards of the North American Electric Reliability Corporation or Western Electricity Coordinating Council. Imported electricity shall include Energy Imbalance Market (EIM) dispatches designated by the CAISO's optimization model and reported by the CAISO to EIM Participating Resource Scheduling Coordinators as electricity imported to serve retail customers load that is located within the State of California, and shall also include electricity associated with emissions not reported by EIM Participating Resource Scheduling Coordinators, but identified as supporting transfers to serve California load by the EIM transfer data.

"Importer of fuel" means an entity that imports fuel into California and that is the importer of record under federal customs law, or the owner or first entity to

hold title to the fuel upon import into the State of California if the fuel is not subject to federal customs law. Pursuant to MRR section 95122, only importers of liquefied petroleum gas, compressed natural gas, and liquefied natural gas are subject to reporting as an importer of fuel.

~~(189)~~ "Initial Crediting 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 Offset or Qualified Positive Offset Verification Statement that is received by ARB.

~~(190)~~ "Intentional Reversal" means any reversal, except as provided below, which is caused by a forest owner's negligence, gross negligence, or willful intent, including harvesting, development, and harm to the area within the offset project boundary, or caused by approved growth models overestimating carbon stocks. A reversal caused by an intentional back burn set by, or at the request of, a local, state, or federal fire protection agency for the purpose of protecting forestlands from an advancing wildfire that began on another property through no negligence, gross negligence, or willful misconduct of the forest owner is not considered an intentional reversal but, rather, an unintentional reversal. Receiving Adverse Offset Verification Statements on two consecutive offset verifications after the end of the final crediting period will be considered an intentional reversal.

~~(191)~~ *[Staff is reviewing the benchmark for this product and may propose a revision to this definition as a result. Any proposed revision would be circulated for a 15-day comment period.]* "Intermediate dairy ingredients" means intermediate (non-final) dairy products imported from other dairy facilities that enter the rehydrating process, which uses water and heat to manufacture powdered milk products.

"Intermittent bleed pneumatic devices" means automated flow control devices powered by pressurized natural gas and used for automatically maintaining a process condition such as liquid level, pressure, delta-pressure and temperature. These are snap-acting or throttling devices that discharge all or a portion of the full volume of the actuator intermittently when control action is

necessary, but do not bleed continuously. Intermittent bleed devices which bleed at a cumulative rate of 6 standard cubic feet per hour or greater are considered high bleed devices for the purposes of this Regulation.

~~(192)~~ “Interstate Pipeline” means any entity that owns or operates a natural gas pipeline delivering natural gas to consumers in the state and is subject to rate regulation by the Federal Energy Regulatory Commission.

~~(193)~~ "Intrastate 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.

~~(194)~~ “Inventory Position” means a contractual agreement with the terminal operator for the use of the storage facilities and terminaling services for the fuel.

~~(195)~~ “Issue” or “Issuance” means, in the context of offset credits, the creation of ARB offset credits or registry offset credits equivalent to the number of verified GHG reductions or GHG removal enhancements for an offset project over a specified period of time. In the context of allowances, issue means the placement of an allowance into an account under the control of the Executive Officer.

~~(196)~~ “Joint Powers ~~Agency(ies)~~Authority” or “JPA” means a~~n~~ public agency that is formed and created pursuant to the provisions of Government Code sections 6500. et seq.

~~(197)~~ “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.

~~(198)~~ "Kerosene-Type Jet Fuel" means a kerosene-based product used in commercial and military turbojet and turboprop aircraft. The product has a maximum distillation temperature of 400 °F at the 10 percent recovery point and a final maximum boiling point of 572 °F. Included are Jet A, Jet A-1, JP-5, and JP-8.

~~(199)~~ “Lactose” means a white to creamy white crystalline product, possessing a mildly sweet taste. It may be anhydrous, contain one molecule of water of hydration, or be a mixture of both forms.

~~(200)~~ “Lager beer” means beer produced with bottom fermenting yeast strains, *Saccharomyces uvarum* (or *carlsbergensis*) at colder fermentation temperatures than ales.

~~(201)~~ *[Staff is reviewing the benchmark for this product and may propose a revision to this definition as a result. Any proposed revision would be circulated for a 15-day comment period.]* “Lead and lead alloys” means lead or the metal alloy that combines lead and other elements such as antimony, selenium, arsenic, copper, tin, or calcium.

~~(202)~~ “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.

~~(203)~~ “Lead Verifier Independent Reviewer” or “Independent Reviewer” means, for purposes of this article, a lead verifier within a verification body who has not participated in conducting offset verification services for an Offset Project Developer or Authorized Project Designee for the current Offset Project Data Report and who provides an independent review of offset verification services rendered for an Offset Project Developer or Authorized Project Designee as required in section 95977.1(b)(3)(R). The independent reviewer is not required to also meet the requirements for a sector specific or offset project specific verifier.

~~(204)~~ “Legacy Contract” means a written contract or tolling agreement, originally executed prior to September 1, 2006, governing the sale of electricity and/or legacy contract qualified thermal output at a price, determined by either a fixed price or price formula, that does not provide for recovery of the costs associated with compliance with this regulation; the originally executed contract or agreement must have remained in effect and must not have been amended since September 1, 2006 to change or affect the terms governing the California greenhouse gas emissions responsibility, price, or amount of electricity or legacy contract qualified thermal output sold, or the expiration date. For purposes of this regulation, legacy contracts exclude contracts that have been amended to include a Legacy PPA Amendment, as defined in the Combined Heat and Power Program Settlement Agreement Term Sheet pursuant to CPUC Decision 10-12-035, with a privately owned utility as defined in the Public Utilities Code section 216 (referred to as an Investor Owned Utility or IOU). This definition of a “Legacy Contract” does not apply to opt-in covered entities.

~~(205)~~ “Legacy Contract Counterparty” means an entity that has been identified, pursuant to section 95894, and may also be identified under industrial allocation pursuant to Table 8-1 to receive an allowance allocation, and has a contract to purchase legacy contract qualified thermal output and/or electricity from a legacy contract generator with an industrial counterparty, or from a legacy contract generator without an industrial counterparty, determined by the Executive Officer pursuant to section 95894(b) to be eligible for transition assistance under section 95894.

~~(206)~~ “Legacy Contract Emissions” means the covered emissions calculated, based on a positive or qualified positive emissions data verification statement issued pursuant to MRR, by the legacy contract generator with an industrial counterparty, ~~or from a legacy contract generator without an industrial counterparty,~~ that are a result of either electricity and/or legacy contract qualified thermal output sold to a legacy contract counterparty, and calculated pursuant to section 95894 of this regulation.

~~(207)~~ “Legacy Contract Generator with an Industrial Counterparty” means a covered entity that generates and sells electricity, thermal energy, or both, subject to a legacy contract with a legacy contract counterparty that is identified as eligible for allowance allocation pursuant to section 95891.

~~(208) “Legacy Contract Generator without an Industrial Counterparty” means a covered entity that generates and sells electricity, thermal energy, or both, subject to a legacy contract, and does not also sell electricity or thermal energy under the legacy contract to a covered entity eligible for allowance allocation pursuant to section 95891~~.

~~(209)~~ “Legacy Contract Qualified Thermal Output” means thermal energy that is sold to a legacy contract counterparty, and reported pursuant to MRR.

~~(210)~~ “Less Intensive Verification” means, for the purposes of this article, the offset verification services provided in interim years between full offset verifications of an Offset Project Data Report; less intensive verification of an Offset Project Data Report only requires data checks and document reviews of an Offset Project Data Report based on the analysis and risk assessment in the most current sampling plan developed as part of the most recent full offset verification services. This level of verification may only be used if the offset verifier can provide findings with a reasonable level of assurance.

~~(211)~~ “Limited Use Holding Account” means an account in which allowances are placed after an entity qualifies for a direct allocation under section 95890(b) or 95890(f). Allowances placed in this account can only be removed for consignment to the auction pursuant to section 95831(a)(3).

~~(212)~~ “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.

~~(213) “Liquid Color Concentrate” means a fluid extract from fruits and vegetables reduced by driving off water and the use of which is for aleraing the colora of materials and/or food.~~

~~(214) "Liquid Hydrogen" means hydrogen in a liquid state.~~

~~(215)~~ “Liquefied natural gas” or “LNG” means natural gas (primarily methane) that has been liquefied by reducing its temperature to -260 degrees Fahrenheit at atmospheric pressure.

~~(216)~~ “Liquefied Petroleum Gas” or “LPG” means a flammable mixture of hydrocarbon gases used as a fuel. LPG is primarily mixtures of propane, butane, propene (propylene) and ethane. The most common specification categories are propane grades, HD-5, HD-10, and commercial grade propane. LPG also includes both odorized and non-odorized liquid petroleum gas, and is also referred to as propane.

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

"Liquid Hydrogen" means hydrogen in a liquid state.

~~(217) “Listed Industrial Sector” means covered industrial sectors that are eligible for industry assistance specified in Table 8-1 of subarticle 8.~~

~~(218)~~ "Long-Term Contract" means a contract for the delivery of electricity entered into before January 1, 2006, for the term of five years or more.

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

~~(219)~~ “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).

~~(220)~~ “Market Index” means any published index of quantities or prices based on results of market transactions.

~~(221)~~ “Market-Shifting Leakage,” in the context of an offset project, means increased GHG emissions or decreased GHG removals outside an offset project’s boundary due to the effects of an offset project on an established market for goods or services.

~~(222)~~ “Marketer” means a purchasing-selling entity that delivers electricity and is not a retail provider.

~~(223)~~ “Methane” or “CH_4” means a GHG consisting on the molecular level of a single carbon atom and four hydrogen atoms.

~~(224)~~ “Metric Ton” or “MT” means a common international measurement for mass, equivalent to 2,204.6 pounds or 1.1 short tons.

~~(225)~~ "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. Milk that is in final package form for beverage use shall have been pasteurized or ultrapasteurized, and shall contain not less than 8 1/4 percent milk solids not fat and not less than 3 1/4 percent milkfat. Milk may have been adjusted by separating part of the milkfat from, or by adding cream to, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk. Milk may be homogenized.

“Milk Powder (high heat)” means milk powder obtained by removing water from pasteurized milk. It contains no more than 5% moisture (by weight) and includes undenatured whey protein nitrogen content less than 1.5 mg/g powder.

“Milk Powder (low heat)” means milk powder obtained by removing water from pasteurized milk. It contains no more than 5% moisture (by weight) and includes undenatured whey protein nitrogen content greater than or equal to 6 mg/g powder.

“Milk Powder (medium heat)” means milk powder obtained by removing water from pasteurized milk. It contains no more than 5% moisture (by weight) and includes undenatured whey protein nitrogen content greater than or equal to 1.51 mg/g powder and less than 6 mg/g powder.

~~(226)~~ “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.

~~(227) "Motor Gasoline (finished)" has the same definition as MRR.~~

~~(228)~~ “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.

~~(229)~~ “Municipal Solid Waste” or “MSW” means solid-phase household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, non-manufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by non-manufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional wastes include yard waste, refuse-derived fuel, and motor vehicle maintenance materials. Insofar as there is separate collection, processing, and disposal of industrial source waste streams consisting of used oil, wood pallets, construction, renovation, and demolition wastes (which includes, but is not limited to, railroad ties and telephone poles), paper, clean wood, plastics, industrial process or manufacturing wastes, medical waste, motor vehicle parts or vehicle fluff, or used tires that do not contain hazardous waste identified or listed under 42 U.S.C. §6921, such wastes are not municipal solid waste. However, such wastes qualify as municipal solid waste where they are collected with other municipal solid waste or are otherwise combined with other municipal solid waste for processing and/or disposal.

~~(230)~~ “Natural Gas” means a naturally occurring mixture or process derivative of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the earth’s surface, of which its constituents include methane, heavier hydrocarbons, and carbon dioxide. Natural gas may be field quality (which varies widely) or pipeline quality. For the purposes of this rule, the definition of natural gas includes similarly constituted fuels such as field production gas, process gas, and fuel gas.

~~(231)~~ “Natural Gas Liquids” or “NGLs”, means those hydrocarbons in natural gas that are separated from the gas as liquids through the process of absorption, condensation, adsorption, or other methods. Natural gas liquids can be classified according to their vapor pressures as low (condensate), intermediate (natural gasoline), and high (liquefied petroleum gas) vapor pressure. Generally, such liquids consist of ethane, propane, butanes, pentanes, and higher molecular weight hydrocarbons. Bulk NGLs refers to mixtures of NGLs that are sold or delivered as undifferentiated product from natural gas processing plants.

~~(232)~~ “Natural gas supplier” or “supplier of natural gas” means any entity that distributes or uses natural gas in California and is described below:

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

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

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

~~(233)~~ “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.

~~(234)~~ *[Staff is reviewing the benchmark for this product and may propose a revision to this definition as a result. Any proposed revision would be circulated for a 15-day comment period.]* "Nitric Acid" means HNO_3 of 100% purity.

~~(235) “Nonfat dry milk and skimmed milk powder (low heat)” means milk powder obtained by removing water from pasteurized skim milk. It contains no more~~

~~than 5% moisture (by weight) and no more than 1.5% milkfat (by weight). It is derived from cumulative heat treatment of milk no higher than 70 ºC for 2 minutes and includes undenatured whey protein nitrogen content equal to or greater than 6 mg/g powder.~~

~~(236) "Nonfat dry milk and skimmed milk powder (medium heat)" means milk powder obtained by removing water from pasteurized skim milk. It contains no more than 5% moisture (by weight) and no more than 1.5% milkfat (by weight). It is derived from cumulative heat treatment of 70-78 ºC for 20 minutes and includes undenatured whey protein nitrogen content equal to or greater than 1.51 mg/g powder up to 5.99 mg/g powder.~~

~~(237) "Nonfat dry milk and skimmed milk powder (high heat)" means milk powder obtained by removing water from pasteurized skim milk. It contains no more than 5% moisture (by weight) and no more than 1.5% milkfat (by weight). It is derived from cumulative heat treatment of 88 ºC for 30 minutes and includes undenatured whey protein nitrogen content equal to or less than 1.5 mg/g powder.~~

~~(238)~~ "Non-Aseptic tomato juice" means tomato juice packaged using methods other than aseptic preparation.

~~(239)~~ "Non-Aseptic tomato paste and tomato puree" means the sum of tomato paste and tomato puree packaged using methods other than aseptic preparation. Non-Aseptic paste and puree is normalized to 24% tomato soluble solids. Non-Aseptic Paste and puree normalized to 24% TSS = (%TSS – raw TSS)/(24 – raw TSS).

~~(240)~~ "Non-Aseptic whole and diced tomato" means the sum of whole and diced tomatoes packaged using methods other than aseptic preparation. Sum of Non-Aseptic Whole and Diced Tomatoes = Whole Tomatoes + (Diced Tomatoes × 1.05).

~~(241)~~ "Non-exempt Biomass derived CO_2" means CO_2 emissions resulting from the combustion of fuel not listed under section 95852.2(a), or that is not verifiable under section 95131(i) of MRR.

~~(242)~~ “Non-thermal enhanced oil recovery” or “non-thermal EOR” means the process of using methods other than thermal EOR, which may include water flooding or CO_2 injection, to increase the recovery of crude oil from a reservoir.

~~(243)~~ “Notice of Delegation” means a formal notice used to delegate authority to make an electronic submission to the accounts administrator.

~~(244)~~ “Offset Material Misstatement” means a discrepancy, omission, misreporting, or aggregation of the three, identified in the course of offset verification services that leads an offset verification team to believe that an Offset Project Data Report contains errors resulting in an overstatement of the reported total GHG emission reductions or GHG removal enhancements greater than 5.00 percent. Discrepancies, omissions, or misreporting, or an aggregation of the three, that result in an understatement of total reported GHG emission reductions or GHG removal enhancements in the Offset Project Data Report is not an offset material misstatement.

~~(245)~~ “Offset Project” means all equipment, materials, items, or actions that are directly related to or have an impact upon GHG reductions, project emissions, or GHG removal enhancements within the offset project boundary.

~~(246)~~ “Offset Project Boundary” is defined by and includes all GHG emission sources, GHG sinks or GHG reservoirs that are affected by an offset project and under control of the Offset Project Operator or Authorized Project Designee. GHG emissions sources, GHG sinks or GHG reservoirs not under control of the Offset Project Operator or Authorized Project Designee are not included in the offset project boundary.

~~(247)~~ “Offset Project Commencement” means, unless otherwise specified in a Compliance Offset Protocol, the date of the beginning of construction, work, or installation for an offset project involving physical construction, other work at an offset project site, or installation of equipment or materials. For an offset project that involves the implementation of a management activity, “offset project commencement” means, unless otherwise specified in a

Compliance Offset Protocol, the date on which such activity is first implemented.

~~(248)~~ "Offset Project Data Report" means the report prepared by an Offset Project Operator or Authorized Project Designee each ~~year~~Reporting Period that provides the information, ~~and~~ documentation, and attestations required by this article or a Compliance Offset Protocol.

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

~~(249)~~ "Offset Project Operator" means the entity(ies) with legal authority to implement the offset project. Only a Primary Account Representative or Alternate Account Representative, as defined in this article, may sign Listing documents, an Offset Project Data Report, a Request for Issuance, or attestations on behalf of the Offset Project Operator.

~~(250)~~ "Offset Project Registry" means an entity that meets the requirements of section 95986 and is approved by ARB that lists offset projects, collects Offset Project Data Reports, facilitates verification of Offset Project Data Reports, and issues registry offset credits for offset projects being implemented using a Compliance Offset Protocol.

~~(251)~~ "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.

~~(252)~~ "Offset Verification" means a systematic, independent, and documented process for evaluation of an Offset Project Operator's or Authorized Project Designee's Offset Project Data Report against ARB's Compliance Offset Protocols and this article for calculating and reporting project baseline emissions, project emissions, GHG reductions, and GHG removal enhancements.

~~(253)~~ "Offset Verification Services" means services provided during offset verification as specified in sections 95977.1 and 95977.2, including reviewing an Offset Project Operator's or Authorized Project Designee's Offset Project Data Report, verifying its accuracy according to the standards specified in this article and applicable Compliance Offset Protocol, assessing the Offset Project Operator's or Authorized Project Designee's compliance with this article and applicable Compliance Offset Protocol, and submitting an Offset Verification Statement to ARB or an Offset Project Registry. For purposes of this article, Offset Verification Services begin with the Planning Meeting and end with the issuance of ARB offset credits, and do not include preliminary planning activities such as scheduling meetings and site visits, or preparing contract documents.

~~(254)~~ "Offset Verification Statement" means the final statement rendered by a verification body attesting whether an Offset Project Operator's or Authorized Project Designee's Offset Project Data Report is free of an offset material misstatement, and whether the Offset Project Data Report conforms to the requirements of this article and applicable Compliance Offset Protocol, and containing the attestations required pursuant to this article.

~~(255)~~ "Offset Verification Team" means all of those working for a verification body, including all subcontractors, to provide offset verification services for an Offset Project Operator or Authorized Project Designee.

~~(256)~~ "On-purpose hydrogen gas" means molecular hydrogen gas produced as a result of a process or processes dedicated to producing hydrogen (e.g., steam methane reforming).

~~(257)~~ “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.

~~(258)~~ “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.

~~(259)~~ “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.

~~(260)~~ “Over-the-Counter” means the trading of carbon compliance instruments, contracts, or other instruments not executed or entered for clearing on any exchange.

~~(261)~~ “Oxidation” means a reaction in which the atoms in an element lose electrons and the valence of the element is correspondingly increased.

~~(262)~~ “Ozone Depleting Substances” or “ODS” means a compound that contributes to stratospheric ozone depletion.

~~(263) “Paper Towel” means a disposable towel made of absorbent tissue paper.~~

~~(264)~~ “Perfluorocarbons” or “PFCs” means a class of greenhouse gases consisting on the molecular level of carbon and fluorine.

~~(265)~~ “Permanent” means, in the context of offset credits, either that GHG reductions and GHG removal enhancements are not reversible, or when GHG reductions and GHG removal enhancements may be reversible, that mechanisms are in place to replace any reversed GHG emission reductions

and GHG removal enhancements to ensure that all credited reductions endure for at least 100 years.

~~(266)~~ “Permanent Retirement Registry” means the publicly available registry in which the Executive Officer will record the retired compliance instruments.

~~(267)~~ “Petroleum” means oil removed from the earth and the oil derived from tar sands, and/or shale.

~~(268)~~ “Petroleum Refinery” or “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.

~~(269)~~ "Pickled Steel Sheet" means hot rolled steel sheet that is sent through a series of hydrochloric acid baths that remove the oxides, and includes both finished pickled steel, and steel produced by the facility as an intermediate product for further processing.

~~(270)~~ “Pipeline Quality Natural Gas” means, for the purpose of calculating emissions under MRR, 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.

~~(271) “Pistachio” means the nuts of the pistachio tree *Pistacia vera*.~~

~~(272)~~ "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.

~~(273)~~ "Plasterboard" is a panel made of gypsum plaster pressed between two thick sheets of paper.

~~(274)~~ “Point of Delivery” or “POD” means the point on an electricity transmission or distribution system where a deliverer makes electricity available to a receiver or available to serve load. This point can be an interconnection with another

system or a substation where the transmission provider's transmission and distribution systems are connected to another system, or a distribution substation where electricity is imported into California over a multi-jurisdictional retail provider's distribution system.

~~(275)~~ "Point of Receipt" or "POR" means the point on an electricity transmission or distribution system where an electricity receiver receives electricity from a deliverer. This point can be an interconnection with another system or a substation where the transmission provider's transmission and distribution systems are connected to another system.

~~(276)~~ "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) T~~the equipment is attached to a foundation;

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

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

~~(277)~~ "Position Holder" means an entity that holds an inventory position in motor vehicle fuel, ethanol, distillate fuel, biodiesel, or renewable diesel as reflected in the records of the terminal operator or a terminal operator that owns motor vehicle fuel or diesel fuel in its terminal. "Position holder" does not include inventory held outside of a terminal, fuel jobbers (unless directly holding inventory at the terminal), retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

~~(278)~~ "Positive Emissions Data Verification Statement" means a verification statement rendered by a verification body attesting that the verification body

can say with reasonable assurance that the covered emissions data in the submitted emissions data report is free of material misstatement and that the emissions data conforms to the requirements of MRR. For purposes of this definition, ‘material misstatement’ shall have the same meaning as ascribed to it in section 95102(a) of MRR.

~~(279)~~ “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.

~~(280)~~ “Positive Product Data Verification Statement” means a verification statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered product data in the submitted emissions data report is free of material misstatement and that the product data conforms to the requirements of MRR. For purposes of this definition, ‘material misstatement’ shall have the same meaning as ascribed to it in section 95102(a) of MRR.

~~(281)~~ “Poultry deli product” means the products, including corn dogs, sausages, and franks, that contain a significant portion of pre-processed poultry, that are cooked and sold wholesale or retail, or transferred to other facilities.

~~(282)~~ “Power” means electricity, except where the context makes clear that another meaning is intended.

~~(283)~~ “Power contract” shall have the same meaning ascribed in section 95102(a) of MRR.

~~(284)~~ “Pretzel” is a crisp biscuit made from dough formed into a knot or stick, flavored with salt, passed through a caustic hot water bath and baked in an oven.

~~(285)~~ “Primary Account Representative” means an individual authorized by a registered entity through the registration process outlined in section 95832 to

make submissions to the Executive Officer and the tracking system in all matters pertaining to this article that legally bind the authorizing entity.

~~(286) "Primary Refinery Products" means aviation gasoline (EIA product codes 111 and 112), motor gasoline (finished) (EIA product codes 125,127,130,149, and 166), motor gasoline blendstocks (EIA product codes 117, 118, 138, and 139), kerosene-type jet fuel (EIA product code 213), distillate fuel oil (EIA product codes 465, 466, and 467), renewable liquid fuels (EIA product codes 203, 205, and 207), and asphalt (EIA product code 931). 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.~~

~~(287)~~ “Primary Residence” means the property an individual uses as a residence the majority of the time during the year or as the principal place of abode of the individual's family members. The primary residence may be documented by the address listed on the individual's federal and state tax returns, driver's license, automobile registration, or voter registration card.

~~(288)~~ “Proceeds” means monies generated as a result of an auction or from sales from the Allowance Price Containment Reserve.

~~(289)~~ “Process” means the intentional or unintentional reactions between substances or their transformation, including the chemical or electrolytic reduction of metal ores, the thermal decomposition of substances, and the formation of substances for use as product or feedstock.

~~(290)~~ “Process Emissions” means the emissions from industrial processes (e.g., cement production, ammonia production) involving chemical or physical transformations other than fuel combustion. For example, the calcination of carbonates in a kiln during cement production or the oxidation of methane in an ammonia process results in the release of process CO_2 emissions to the atmosphere. Emissions from fuel combustion to provide process heat are not part of process emissions, whether the combustion is internal or external to the process equipment.

~~(291)~~ “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.

~~(292)~~ “Producer” means a person who owns leases, operates, controls, or supervises a California production facility.

~~(293)~~ “Product Data Verification Statement” means the final statement rendered by a verification body attesting whether a reporting entity’s product data in their covered emissions data report is free of material misstatement, and whether the product data conforms to the requirements of the MRR. For purposes of this definition, ‘material misstatement’ shall have the same meaning as ascribed to it in section 95102(a) of MRR.

~~(294)~~ “Professional Judgment” means the ability to render sound decisions based on professional qualifications and relevant greenhouse gas accounting and auditing experience.

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

- Climate Action Reserve U.S. Livestock Project Protocol versions 1.0 through 3.0;
- Climate Action Reserve Urban Forest Project Protocol versions 1.0 through 1.1;
- Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0;
- Climate Action Reserve Forest Project Protocol versions 2.1 and 3.0 through 3.2, if the early action offset project contributes early action offset credits into a buffer account based on its reversal risk calculated

according to the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4;

- Climate Action Reserve Coal Mine Methane Project Protocol versions 1.0 and 1.1;
- Verified Carbon Standard VMR0001 Revisions to ACM0008 to Include Pre-drainage of Methane from an Active Open Cast Mine as a Methane Emission Reduction Activity Methodology, v1.0;
- Verified Carbon Standard VMR0002 Revisions to ACM0008 to Include Methane Capture and Destruction from Abandoned Coal Mines Methodology, v1.0; or
- American Carbon Registry Voluntary Emission Reductions in Rice Management Systems Parent Methodology, version 1.0:
- American Carbon Registry Voluntary Emission Reductions in Rice Management Systems – California Module, version 1.0; and
- American Carbon Registry Voluntary Emission Reductions in Rice Management Systems – Mid-South Module, version 1.0.

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

~~(295)~~ "Project Baseline" means, in the context of a specific offset project, a conservative estimate of business-as-usual GHG emission reductions or GHG removal enhancements for the offset project's GHG emission sources, GHG sinks, or GHG reservoirs within the offset project boundary.

~~(296)~~ "Project Emissions" means any GHG emissions associated with the implementation of an offset project that must be accounted for in the Offset Project Data Report.

~~(297)~~ "Proof Gallons" means one liquid gallon of distilled spirits that is 50% alcohol at 60 degrees F.

~~(298)~~ "Propane" is a paraffinic hydrocarbon with molecular formula C_3H_8.

~~(299)~~ "Property Right" means any type of right to specific property whether it is personal or real property, tangible or intangible.

~~(300)~~ “Protein meal and fat” means meal, feather meal, and fat rendered product from poultry tissues including meat, viscera, bone, blood, and feathers.

~~(301)~~ “Public Service Facility” means:

~~(A)~~ a facility that is a covered entity or opt-in covered entity owned by a local government as defined in Government Code section 53720(a) that provides steam or chilled water to buildings and facilities owned by the local government, and may also provide steam or electricity to other buildings or to an electrical distribution utility other than the local government; or

~~(B)~~ a covered entity that provides steam or chilled water to a publicly-owned university that is an educational facility pursuant to Education Code section 94110(e).

~~(C)~~ Facilities operated by electrical distribution utilities are excluded from this definition.

~~(302)~~ “Public Utility Gas Corporation” is a gas corporation defined in California Public Utilities Code section 222 that is also a public utility as defined in California Public Utilities Code section 216.

~~(303)~~ “Publicly Owned Natural Gas Utility” means a municipality or municipal corporation, a municipal utility district, a public utility district, or a joint powers authority that includes one or more of these agencies that furnishes natural gas services to end users.

~~(304)~~ “Public Wholesale Water Agency” means a covered entity that is owned and operated as a special district, as defined in Statutes of 1960, Ch. 209 (California Water Code appendix § 109), that uses electricity to convey wholesale water supplies and has a compliance obligation for each data year from 2013 to 2020.

~~(305)~~ “Purchase Limit” means the maximum percentage of allowances that may be purchased by an entity of a group of affiliated entities at an allowance auction.

~~(306)~~ “Purchasing-Selling Entity” or “PSE” means the same meaning as ascribed in MRR.

~~(307) "Qualified Export" means electricity that is exported in the same hour as imported electricity and documented by NERC E-tags. When imports are not documented on NERC E-tags, because a facility or unit located outside the state of California has a first point of interconnection with a California balancing authority area, the reporting entity may demonstrate hourly electricity delivery consistent with the record keeping requirements of the California balancing authority area, including records of revenue quality meter data, invoices, or settlements data. Only electricity exported within the same hour and by the same importer as the imported electricity is a qualified export. It is not necessary for the imported and exported electricity (as defined in the MRR) to enter or leave California at the same intertie. Qualified exports shall not result in a negative compliance obligation for any hour.~~

~~(308)~~ "Qualified Positive Emissions Data Verification Statement" means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered emissions data in the submitted emissions data report is free of material misstatement and is in conformance with section 95131(b)(9) of MRR, but the emissions data may include one or more other nonconformance(s) with requirements of MRR which do not result in a material misstatement. For purposes of this definition, 'material misstatement' shall have the same meaning as ascribed to it in section 95102(a) of MRR.

~~(309)~~ "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. Nonconformance, in this context, does not include disregarding the explicit requirements of this article or applicable Compliance

Offset Protocol and substituting alternative requirements not approved by the Board.

~~(310)~~ "Qualified Positive Product Data Verification Statement" means a statement rendered by a verification body attesting that the verification body can say with reasonable assurance that the covered product data in the submitted emissions data report is free of material misstatement and is in conformance with section 95131(b)(9) of MRR, but the product data may include one or more other nonconformance(s) with the requirements of MRR which do not result in a material misstatement.

~~(311)~~ "Qualified Thermal Output" means the thermal energy generated by a cogeneration unit or district heating facility that is sold to particular end-users and reported pursuant to MRR section 95112(a)(5)(A) and the thermal energy used on-site by industrial processes or operations and heating and cooling operations that is not in support of or a part of the electricity generation or cogeneration system and is reported pursuant to MRR sections 95112(a)(5)(C). Qualified thermal output does not include thermal energy that is vented, radiated, wasted, or discharged before it is utilized at industrial processes or operations, or for a facility with a cogeneration unit, any thermal energy generated by equipment that is not an integral part of the cogeneration unit.

~~(312)~~ "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.

~~(313)~~ "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.

~~(314)~~ “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.

~~(315)~~ “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.

~~(316)~~ “Raw TSS” means the average annual percent tomato soluable solids of raw tomatoes to be processed in a tomato processing facility.

~~(317)~~ “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.

~~(318)~~ “Reasonable Assurance” means a high degree of confidence that submitted data and statements are valid.

~~(319)~~ "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.

~~(320)~~ "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.

~~(321)~~ ”Recycled Medium" means the center segment of corrugated shipping containers, being faced with linerboard on both sides. Recycled medium is made from recycled fibers.

~~(322)~~ “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.

~~(323)~~ "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).

~~(324)~~ "Register," in the context of a compliance instrument, means the act of assigning the serial number of a compliance instrument into an account.

~~(325)~~ "Registrant" or "Registered Entity" means an entity that has completed the process for registration.

~~(326)~~ "Registry Offset Credit" means a credit issued by an Offset Project Registry for a GHG reduction or GHG removal enhancement of one metric ton of CO_2e. The GHG reduction or GHG removal enhancement must be real, additional, quantifiable, permanent, verifiable, and enforceable and may only be issued for offset projects using Compliance Offset Protocols. Pursuant to section 95981.1, ARB may determine that a registry offset credit may be removed, retired, or cancelled from the Offset Project Registry system and issued as an ARB offset credit.

~~(327)~~ "Registry Services" means all services provided by an ARB approved Offset Project Registry in section 95987.

"Regulatory Compliance" means fulfilling all local, regional, state, and national environmental and health and safety laws and regulations that apply based on the offset project location and that directly apply to the offset project, including as specified in a Compliance Offset Protocol.

~~(328)~~ "Renewable diesel" means a motor vehicle fuel or fuel additive that is all of the following:

~~(A)~~ ~~R~~registered as a motor vehicle fuel or fuel additive under 40 CFR Part 79;

~~(B)~~ ~~N~~not a mono-alkyl ester;

~~(C)~~ ~~I~~intended for use in engines that are designed to run on conventional diesel fuel; and

~~(D)~~ ~~D~~derived from nonpetroleum renewable resources.

~~(329)~~ “Renewable Energy” means energy from sources that constantly renew themselves or that are regarded as practically inexhaustible. Renewable energy includes energy derived from solar, wind, geothermal, hydroelectric, wood, biomass, tidal power, sea currents, and ocean thermal gradients.

~~(330)~~ “Renewable Energy Credit” or “REC” has the same meaning as defined in the California Energy Commission’s “Renewable Portfolio Standard Eligibility, 7th edition, Commission Guidebook, April, 2013; CEC-300-2013-005-ED7-CMF.

~~(331)~~ "Renewable Liquid Fuels" means fuel ethanol, biomass-based diesel fuel, other renewable diesel fuel and other renewable fuels.

~~(332)~~ “Reporting Period” means, in the context of offsets, the period of time, for which an Offset Project Operator or Authorized Project Designee quantifies and reports GHG reductions or GHG removal enhancements covered in an Offset Project Data Report. An offset project’s Reporting Period is specified in the project listing documentation, but may be modified by notifying ARB and the OPR (if applicable) in writing or by providing updated listing information with the submittal of the Offset Project Data Report. ~~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.~~ Modifications to the Reporting Period are only allowed if the modification occurs prior to any deadlines being missed. The first reporting period for an offset project in an initial crediting period may consist of 6 to 24 consecutive months; all subsequent reporting periods in an initial crediting and all reporting periods in any renewed crediting period must consist of 12 consecutive months. For offset projects developed using the Compliance Offset Protocol in section 95973(a)(2)(C)1., there may only be one Reporting Period per offset project. The Reporting Period may not be longer than 12 months and there is no minimum timeframe imposed for the Reporting Period. For offset projects developed using the compliance offset protocol in section 95973(a)(2)(C)6., the Reporting Period is approximately 12 months; it may be less than or exceed 12 months.

~~(333)~~ “Reporting Year” means data year.

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

~~(334)~~ “Reserve Price” see “Auction Reserve Price.”

~~(335)~~ “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.

~~(336)~~ “Resource Shuffling” means any plan, scheme, or artifice undertaken by a First Deliverer of Electricity to substitute electricity deliveries from sources with relatively lower emissions for electricity deliveries from sources with relatively higher emissions to reduce its emissions compliance obligation. Resource shuffling does not include substitution of electricity deliveries from sources with relatively lower emissions for electricity deliveries from sources with relatively higher emissions resources when the substitution occurs pursuant to the conditions listed in section 95852(b)(2)(A).

~~(337)~~ “Retail Provider” means an entity that provides electricity to retail end users in California and is an electrical corporation as defined in Public Utilities Code section 218, electric service provider as defined in Public Utilities Code section 218.3, local publicly owned electric utility as defined in Public Utilities Code section 224.3, a community choice aggregator as defined in Public Utilities Code section 331.1, or the Western Area Power Administration. For purposes of this article, electrical cooperatives, as defined by Public Utilities Code section 2776, are excluded.

~~(338)~~ “Retire” or “Retired” or “Retirement” means that the serial number for a compliance instrument is registered into the Retirement Account under the control of the Executive Officer. Compliance instruments registered into this account cannot be removed.

~~(339)~~ “Reversal” means a GHG emission reduction or GHG removal enhancement for which an ARB offset credit or registry offset credit has been issued that is

subsequently released or emitted back into the atmosphere, or that is later determined to have never occurred. A reversal is either intentional or unintentional.~~due to any intentional or unintentional circumstance.~~

~~(340)~~ "Salt" means sodium chloride, determined as chloride and calculated as percent sodium chloride, by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed., 1980, sections 32.025 to 32.030, under the heading "Method III (Potentiometric Method)."

~~(341)~~ *[Staff is reviewing the benchmark for this product and may propose a revision to this definition as a result. Any proposed revision would be circulated for a 15-day comment period.]* "Seamless rolled ring" means a metal product manufactured by punching a hole in a thick, round piece of metal, and then rolling and squeezing (or in some cases, pounding) it into a thin ring. Ring diameters can be anywhere from a few inches to 30 feet.

~~(342)~~ "Sector" or "Sectoral," when used in conjunction with sector-based crediting programs, means a group or subgroup of an economic activity, or a group or cross-section of a group of economic activities, within a jurisdiction.

~~(343)~~ "Sector-Based Crediting Program" is a GHG emissions-reduction crediting mechanism established by a country, region, or subnational jurisdiction in a developing country and covering a particular economic sector within that jurisdiction. A program's performance is based on achievement toward an emissions reduction target for the particular sector within the boundary of the jurisdiction.

~~(344)~~ "Sector-Based Offset Credit" means a credit issued from a sector-based crediting program once the crediting baseline for a sector has been reached.

~~(345)~~ "Self-Generation of Electricity" means electricity dedicated to serving an electricity user on the same location as the generator. The system may be operated directly by the electricity user or by an entity with a contractual arrangement.

~~(346)~~ "Serial Number" means a unique number assigned to each compliance instrument for identification.

~~(347)~~ “Sequestration” means the removal and storage of carbon from the atmosphere in GHG sinks or GHG reservoirs through physical or biological processes.

~~(348)~~ “Sink” or “sink to load” or “load sink” means the sink identified on the physical path of NERC e-Tags, where defined points have been established through the NERC Registry. Exported electricity is disaggregated by the sink on the NERC e-Tag, also referred to as the final point of delivery on the NERC e-Tag.

~~(349)~~ “Skim milk” means the product that results from the complete or partial removal of milk fat from milk.

~~(350)~~ *[Staff is reviewing the benchmark for this product and may propose a revision to this definition as a result. Any proposed revision would be circulated for a 15-day comment period.]* "Soda Ash Equivalent" means the total mass of all soda ash, biocarb, borax, V-Bor, DECA, PYROBOR, Boric Acid, Sodium Sulfate, Potassium Sulfate, Potassium Chloride, and Sodium Chloride produced.

~~(351) “Solomon Energy Intensity Index®” or “Solomon EII” or “EII” means a petroleum refinery energy efficiency metric that compares actual energy consumption for a refinery with the “standard” energy consumption for a refinery of similar size and configuration. The “standard” energy is calculated based on an analysis of worldwide refining capacity as contained in the database maintained by Solomon Associates. The ratio of a facility’s actual energy to the standard energy is multiplied by 100 to arrive at the Solomon EII for a refinery. “Solomon Energy Review” means a data submittal and review conducted by a petroleum refinery and Solomon Associates. This process uses the refinery energy utilization, throughput and output to determine the Solomon EII of the refinery.~~

~~(352)~~ “Source” means greenhouse gas source; or any physical unit, process, or other use or activity that releases a greenhouse gas into the atmosphere.

~~(353)~~ “Source of generation” or “generation source” means the generation source identified on the physical path of NERC e-Tags, where defined points have

been established through the NERC Registry. Imported electricity and wheels are disaggregated by the source on the NERC e-Tag, also referred to as the first point of receipt.

~~(354)~~ “Specified Source of Electricity” or “Specified Source” means a facility or unit which is permitted to be claimed as the source of electricity delivered. The reporting entity must have either full or partial ownership in the facility/unit or a written power contract as defined in MRR section 95102(a) to procure electricity generated by that facility/unit. Specified facilities/units include cogeneration systems. Specified source also means electricity procured from an asset-controlling supplier recognized by ARB.

~~(355)~~ “Stand-Alone-Electricity Generating Facility” has the same meaning in this regulation as in section 95102(a) of MRR.

~~(356) “Standing Live Carbon Stocks” means the above ground carbon in live tree biomass. Live trees include the bole, stem, branches, roots, and leaves or needles.~~

~~(357)~~ “Stationary” means neither portable nor self-propelled, and operated at a single facility.

~~(358)~~ "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.

~~(359)~~ “Stucco” means hemihydrate plaster ($CaSO_4 \cdot ½H_2O$) produced by heating (“calcining”) raw gypsum, thereby removing three-quarters of its chemically combined water.

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

~~(360)~~ “Supplier” means a producer, importer, exporter, position holder, interstate pipeline operator, or local distribution company of a fossil fuel or an industrial greenhouse gas.

~~(361)~~ “Terminal” means a motor vehicle fuel or diesel fuel storage and distribution facility that is supplied by pipeline or vessel, and from which fuel may be removed at a rack. “Terminal” includes a fuel production facility where motor vehicle or diesel fuel is produced and stored and from which fuel may be removed at a rack.

~~(362)~~ "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.

~~(363)~~ “Thermal enhanced oil recovery” or “thermal EOR” means the process of using injected steam to increase the recovery of crude oil from a reservoir.

~~(364)~~ “Tin Plate" means thin sheet steel with a very thin coating of metallic tin. Tin plate also includes Tin Free Steel or TFS which has an extremely thin coating of metallic chromium, and chromium oxide. Tin plate is used primarily in can making.

~~(365) “Tissue” means a class of papers which are characteristically gauzy in texture and, in some cases, fairly transparent. They may be glazed, unglazed, or creped, and are used for a variety of purposes. Examples of different types of tissue papers include sanitary grades such as toilet, facial, napkin, towels, wipes, and special sanitary papers.~~

~~(366) "Tissue produced adjusted by water absorbency capacity" means the mass of tissue adjusted by water absorbency capacity derived by using the following metric: Tissue produced adjusted by water absorbency capacity = Air dried ton of tissue produced x grams of water absorbed by a gram of tissue product.~~

~~(367)~~ “Tomato Juice” is the liquid obtained from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. Tomato juice may contain salt, lemon juice, sodium bicarbonate,

water, spices and/or flavoring. This food shall contain not less than ~~5.0~~4.0 percent by weight tomato soluble solids.

~~(368)~~ “Tomato Paste” is the food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. Tomato paste is prepared by concentrating tomato ingredients until the food contains not less than 24.0 percent tomato soluble solids.

~~(369)~~ “Tomato puree” is the semisolid food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. Tomato ~~paste~~puree is prepared by concentrating tomato ingredients until the food contains not less than 8.0 percent but less than 24.0 percent tomato soluble solids.

~~(370)~~ Tomato soluble solids” (TSS or NTSS) means the sucrose value of raw tomatoes or tomato product. For raw tomatoes, this value shall be determined by the methods prescribed in the "Processing Tomato Advisory Board (PTAB) Inspection Procedures — Soluble Solids: Using a Digital Refractometer" (2014), which is hereby incorporated by reference. For the tomato products tomato juice, tomato paste, tomato puree, and whole and diced tomatoes, this value shall be determined by the method prescribed in "Processing Tomato Advisory Board (PTAB) Inspection Procedures" (2014), or~~as determined by the method prescribed in~~ the “Official Methods of Analysis of the Association of Official Analytical Chemists,” 13th Ed., 1980, sections 32.014 to 32.016 and 52.012 (AOAC, 1980), depending on availability. For instances in which no salt has been added, the sucrose value obtained from the referenced tables shall be considered the percent of tomato soluble solids. If salt has been added either intentionally or through the application of the acidified break, determine the percent of such added sodium chloride as specified in the regulation’s definition of salt. Subtract the percentage sodium chloride from the percentage of total soluble solids found (sucrose value from the refractive index tables) and multiply the difference by 1.016. The resultant value is considered the percent of “tomato soluble solids.” The centrifuges, centrifuge spin rate, centrifuge spin time, and other lab measurement

equipment specified in AOAC (1980) may be exchanged with more modern equipment and measurement procedures where the operator deems necessary. Tomato soluble solids must be rounded to the nearest tenth of a percent of solids.

~~(371)~~ “Tracking System” means the Compliance Instrument Tracking System Service where ARB compliance instruments are issued, traded, and retired.

~~(372)~~ “Transaction,” when referring to an arrangement between registered entities regarding compliance instruments, means an understanding among registered entities to transfer the control of a compliance instrument from one entity to another, either immediately or at a later date.

~~(373)~~ “Transfer” of a compliance instrument means the removal of a compliance instrument from one account and placement into another account.

~~(374)~~ “Transfer Request” means the communication by an authorized account representative or an alternate authorized account representative to the accounts administrator to register into the tracking system the transfer of allowances between accounts.

~~(375)~~ “Transferred ARB Project” means an offset project which has been transferred from ARB or one Offset Project Registry, where it was previously listed, to ARB or another Offset Project Registry. The ~~Offset Project Registry~~entity to which the offset project is transferred will indicate the applicable offset project status from the following list: “Proposed Project," "Active ARB Project," "Active Registry Project," "Proposed Renewal," "Active ARB Renewal," and "Active Registry Renewal."

~~(376)~~ “Tribe” means a federally-recognized Indian tribe and any entity created by a federally-recognized Indian Tribe.

~~(377)~~ "True-up allowance amount" is a quantity of California GHG allowances allocated for changes in production or allocation not properly accounted for in prior allocations pursuant to 95891(b), 95891(c)(~~3~~2)(B), ~~95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(e)(1),~~ or 95894(c)~~, or 95894(d)~~.

~~(378)~~ “Ultrafiltered milk” means raw or pasteurized milk or nonfat milk that is passed over one or more semipermeable membranes to partially remove water,

lactose, minerals, and water-soluble vitamins without altering the casein-to-whey protein ratio of the milk or nonfat milk and resulting in a liquid product.

~~(379)~~ “Unintentional Reversal” means any reversal, including wildfires or disease that is not the result of the forest owner’s negligence, gross negligence, or willful intent. In the case of a wildfire, only trees identified as dead or dying, in the post-event inventory, as a result of the fire will be removed from the project’s inventory and compensated from the Forest Buffer Account minus any salvage harvest accounted for under long-term storage.

~~(380)~~ “University Covered Entity” means a facility that meets the definition of an educational facility pursuant to Education Code section 94110(e) and is either a covered entity, or opt-in covered entity as of January 1, 2015.

~~(381)~~ “Unspecified Source of Electricity” or “Unspecified Source” means a source of electricity that is not a specified source at the time of entry into the transaction to procure the electricity.

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

~~(382)~~ “Vented Emissions” means intentional or designed releases of CH_4 or CO_2 containing natural gas or hydrocarbon gas (not including stationary combustion flue gas), including process designed flow to the atmosphere through seals or vent pipes, equipment blowdown for maintenance, and direct venting of gas used to power equipment (such as pneumatic devices).

~~(383)~~ “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.

~~(384)~~ “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.

~~(385)~~ “Verifier” or “offset verifier” means an individual accredited by ARB to carry out offset verification services as specified in sections 95977.1 and 95977.2.

~~(386)~~ “Vintage Year” means the budget year to which an individual Californian GHG allowance is assigned pursuant to subarticle 6.

~~(387)~~ “Voluntarily Associated Entity” or “General Market Participant” means any entity which does not meet the requirements of section 95811 or 95813 in this article and that intends to purchase, hold, sell, or voluntarily retire compliance instruments or an entity operating an offset project or early action offset project that is registered with ARB pursuant to subarticle 13 or 14 in this article.

~~(388)~~ “Voluntary Renewable Electricity” or “VRE” means electricity produced or RECs associated with electricity, produced by a voluntary renewable electricity generator, and which has not and will not be sold or used to meet any other mandatory requirements in California or any other jurisdiction.

~~(389) “Voluntary Renewable Electricity Aggregator” or “VRE Aggregator” means the entity that is aggregating systems for the purpose of allowance retirement pursuant to section 95841.1.~~

~~(390) “Voluntary Renewable Electricity Generator” means any entity that produces renewable electricity and applies for allowance retirement pursuant to section 95841.1.~~

~~(391)~~ “Voluntary Renewable Electricity Participant” or “VRE Participant” means a voluntary renewable electricity generator, a REC marketer, or entity that purchases voluntary renewable electricity or RECs as an end-user or on behalf of an end-user and is seeking allowance retirement pursuant to section 95841.1.

~~(392)~~ “Waste gas” means a natural gas that contains a greater percentage of gaseous chemical impurities than the percentage of methane. For purposes of this definition, gaseous chemical impurities may include carbon dioxide, nitrogen, helium, or hydrogen sulfide.

~~(393)~~ “Waste-to-Energy Facility” means a facility located in California that combusts eligible municipal solid waste. The facility must operate in accordance with a

current permit issued by the local Air Pollution Control District or Air Quality Management District to generate and distribute electricity over the electric power grid for wholesale or retail customers of the grid located in California.

~~(394) "Water absorption capacity" means the mass of water that is absorbed per unit mass of the test piece using the methodology specified by ISO 12625-8:2010 except for the humidity and temperature conditions, which shall be 50% relative humidity +/- 2%, and 23 degrees C +/- 1 degree C.~~

~~(395)~~ "Whey protein concentrate" means the substance obtained by the removal of sufficient nonprotein constituents from pasteurized whey so that the finished dry product contains greater than 25% protein. Whey protein concentrate is produced by physical separation techniques such as precipitation, filtration, or dialysis. The acidity of whey protein concentrate may be adjusted by the addition of safe and suitable pH-adjusting ingredients.

~~(396)~~ "Whole chicken and chicken parts" means whole chicken or edible chicken parts (including breasts, thighs, wings, and drums) that are packaged for wholesale or retail sale; ~~, or~~ transferred to other facilities; or binned, sent to an on-site rendering plant, and rendered into protein meal and fat.

~~(397)~~ "Whole Tomatoes" is the food prepared from mature tomatoes conforming to the characteristics of the fruit *Lycopersicum esculentum* P. Mill, of red or reddish varieties. The tomatoes are ~~peeled but~~ kept whole, and shall have had the stems and cal~~i~~y~~c~~es removed ~~and shall have been cored, except where the internal core is insignificant to texture and appearance~~.

(b) For the purposes of sections 95801 through 96023, 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)~~ "C" means Centigrade.

~~(6)~~ "CAISO" means the California Independent System Operator.

~~(7) "CAR" means Climate Action Reserve.~~

~~(8)~~ "CEC" means California Energy Commission.

~~(9)~~ "CFR" means Code of Federal Regulations.

~~(10)~~ "CH_4" means methane.

~~(11)~~ "CO_2" means carbon dioxide.

~~(12)~~ "CO_2e" means carbon dioxide equivalent.

~~(13)~~ "DWR" means California Department of Water Resources.

~~(14) "EII" means the Solomon Energy Instensity Index®~~

~~(15)~~ "ETS" means Emission Trading System.

~~(16)~~ "F" means Fahrenheit.

~~(17)~~ "GHG" means greenhouse gas.

~~(18)~~ "GHG ETS" means greenhouse gas emissions trading system.

~~(19)~~ "GWP" means global warming potential.

~~(20)~~ "HFC" means hydrofluorocarbon.

~~(21)~~ "LPG" means liquefied petroleum gas.

~~(22)~~ "MMBtu" means one million British thermal units.

~~(23)~~ "MRR" means the Air Resources Board's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions.

~~(24)~~ "Mscf" means one thousand standard cubic feet.

~~(25)~~ "MWh" means megawatt-hour.

~~(26)~~ "MT" means metric tons.

~~(27)~~ "NAICS" means North American Industry Classification System.

~~(28)~~ "NGLs" means natural gas liquids.

~~(29)~~ "NERC" means North American Electric Reliability Corporation.

~~(30)~~ "N_2O" means "nitrous oxide."

~~(31)~~ "PFC" means perfluorocarbon.

~~(32)~~ "PSE" means purchasing-selling entity.

~~(33)~~ "PUC" means the Public Utilities Commission.

~~(34) "QE" means Qualified Export as defined in section 95802(a)~~

~~(35)~~ "REC" means Renewable Energy Credit.

~~(36)~~ "REDD" means reducing emissions from deforestation and degradation.

~~(37)~~ "RPS" means the Renewable Portfolio Standard.

~~(38)~~ "SCF" means standard cubic foot.

~~(39)~~ "SF_6" means sulfur hexafluoride.

~~(40)~~ "TEAP" means the Technology and Economic Assessment Panel of the Montreal Protocol.

~~(41)~~ "WAPA" means Western Area Power Administration.

~~(42)~~ "WREGIS" means Western Renewable Energy Generation Information System.

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

§ 95803. Submittal of Required Information.

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

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

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

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

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§ 95811. Covered Entities.

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

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

(1) RBOB;

(2) Distillate Fuel Oil No. 1; or

(3) Distillate Fuel Oil No. 2.

(e) Suppliers of Liquefied Petroleum Gas.

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

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

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

***

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

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

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

***

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.

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(b) If an entity's reported or reported and verified annual emissions in any data year from 2009 through 2012 from the categories specified in section 95852(a) or (b) equal or exceed the thresholds identified below, that entity is classified as a

covered entity as of January 1, 2013, and for all future years until any requirement set forth in section 95835(c) ~~95812(e)~~ is met.

(c) The requirements apply as follows:

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

(d) If an entity's annual, assigned, or reported and verified emissions from any data year between 2011-2014 equal or exceed the thresholds identified below from the categories specified in sections 95851(a), (b), and (d) 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_2e annually ~~from the~~of GHG emissions ~~of GHG~~ that would result from full combustion or oxidation of the quantities of the fuels, identified in section 95811(c) through (g), which are imported and/or delivered to California.

***

~~(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 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.~~

~~(f) If a covered entity or opt-in covered entity ceases all operation or "shuts down," the following shall apply:~~

~~(1) The entity must comply with MRR cessation of reporting provisions per 95101(h).~~

~~(2) Within 30 days of shut down, the entity must inform ARB in writing that it has shut down. If not part of a consolidated tracking system account, the entity will become a voluntarily associated entity. If part of a consolidated tracking system account, the entity that has shut down will become a voluntarily associated entity within the consolidated tracking system account.~~

~~(3) For a formerly covered or opt-in covered entity, within 30 days of fulfilling its compliance obligation for its final year of operations, the entity must request (in writing) permission from ARB to:~~

~~(A) remain in the tracking system account as a voluntarily associated entity pursuant to 95814(a)(1), or~~

~~(B) close its tracking system account (if not part of a consolidated tracking system account), or remove the covered entity or opt-in covered entity from its tracking system account (if part of a consolidated tracking system account).~~

~~(4) Return of future free allocation. If an entity received allocation of a vintage subsequent to the calendar year that the facility ceased operation, the facility shall return to the Executive Officer the number of allowances equal to the directly allocated allowances for the corresponding budget years in which it had no production. The submission of request to return allowances must occur within five days of settlement of the first auction or reserve sale conducted by ARB following the applicable surrender date, whichever is later, and for which the registration deadline has not passed at the time of the final compliance obligation for its final year of operation. The returned allowances will be auctioned pursuant to section 95910.~~

~~(5) Prorated final free allocation. In calendar year following shut down, if a facility receives allocation that includes a true-up pursuant to sections 95852(k), 95870(e), 95870(f), 95891(b), 95891(c), 95891(d), 95891(e), or 95894(c) only the true-up shall be calculated. This value shall include any previous negative balance of allowance allocation pursuant to 95870(i).~~

~~(A) If true-up is positive, the calculated true-up amount shall be directly distributed to the facility in the vintage of the calendar year following shut down.~~

~~(B) If true-up is negative, the facility shall return to the Executive Officer the number of allowances equal to the negative amount in the vintage of or before the calendar year following shut down. The submission for retirement must occur within five days of settlement of the first auction or reserve sale conducted by ARB following the applicable surrender date, whichever is later, and for which the registration deadline has not passed at the time of the final compliance obligation for its final year of operation. The Executive Officer will auction the returned allowances pursuant to section 95910.~~

~~(6) If the entity requests that ARB close its account in the tracking system and there are compliance instruments remaining in the entity's accounts, ARB will auction the allowances pursuant to 95831(c)(4).~~

~~(g) Change of Entity Type. At the end of any compliance period, a covered entity may apply to change its entity type in the program, if its annual emission levels for each year in the compliance period remain below the inclusion thresholds set forth in section 95812. This application must be made to the Executive Officer by September 1 of the last calendar year of the compliance period. If an entity does not apply to the Executive Officer, the facility will automatically become an voluntarily associated entity pursuant to 95812(g)(2). A covered entity that applies to change its entity type may choose one of the following:~~

~~(1) Remain in the Cap-and-Trade Program as an opt-in covered entity pursuant to 95813;~~

~~(2) Remain in the Cap-and-Trade Program as a voluntarily associated entity pursuant to 95814;~~

~~(A) If the entity has a negative balance of allowance allocation pursuant to 95870(i), the entity shall submit to the Executive Officer for the retirement of the number of allowances equal to the negative amount in the vintage of or before the final calendar year of the~~

~~compliance period. The submittal for retirement must occur within five days of settlement of the first auction or reserve sale conducted by ARB following the applicable surrender date, whichever is later, and for which the registration deadline has not passed at the time of the final compliance obligation for its final year of operation.~~

~~(3) Opt out of the Cap-and-Trade Program.~~

~~(A) An entity choosing to opt out of the program must continue to report pursuant to MRR in the calendar year following the final year of a compliance period and fulfill its compliance obligations as required pursuant to 95856.~~

~~(B) If the entity has a negative balance of allowance allocation pursuant to 95870(i), the entity shall return to the Executive Officer the number of allowances equal to the negative amount in the vintage of or before the final calendar year of the compliance period. The submittal for retirement must occur within five days of settlement of the first auction or reserve sale conducted by ARB following the applicable surrender date, whichever is later, and for which the registration deadline has not passed at the time of the final compliance obligation for its final year of operation.~~

~~(C) If the entity closes its account in the tracking system and there are compliance instruments remaining in the entity's accounts, ARB will auction the allowances pursuant to 95831(c)(4).~~

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

§ 95813. Opt-In Covered Entities.

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(b) An entity that <u>does not qualify to opt into the Program pursuant to section 95813(h) and that</u> voluntarily elects to participate in this program under this section must submit its request to the Executive Officer for approval ~~pursuant to~~

~~section 95830(c)~~ by March 1 of the calendar year immediately preceding the first year in which it voluntarily elects to be subject to a compliance obligation pursuant to this section. The request for approval to be an opt-in covered entity shall specify the first year in which the entity elects to be subject to a compliance obligation. The Executive Officer shall evaluate such applications, ~~and~~ designate approved applicants as opt-in covered entities, and, for approved applicants, specify the first year in which the opt-in covered entity will be subject to a compliance obligation.

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

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

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

to opt-out of this program must apply to the Executive Officer by September 1 of the last year of a compliance period.

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

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

§ 95814. Voluntarily Associated Entities and Other Registered Participants.

(a) Voluntarily Associated Entities (VAE). An entity not identified as a covered entity or opt-in covered entity that intends to hold California compliance instruments may apply to the Executive Officer pursuant to section 95830(c) for approval as a voluntarily associated entity.

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

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

under this subparagraph may also hold allowances, but only after fulfilling the requirements of section 95830(c)(1)(G); or

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(2) An individual or entity registering as a voluntarily associated entity must have at least one active account representative with a primary residence in the United States.

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

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

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

~~An individual employed by an entity providing consulting services as described in section 95923 for a covered entity, opt-in covered entity, or voluntarily associated entity who chooses to register as a voluntarily associated entity in the tracking system, must provide a notarized letter from~~

~~the individual's employer stating the employer is aware of the employee's plans to apply as a voluntarily associated entity in the Cap-and-Trade Program and that the employer has conflict of interest policies and procedures in place which prevent the employee from using information gained in the course of employment as an employee of the company and using it for personal gain in the Cap-and-Trade Program.~~

(4) An individual who ~~meets the requirements of section 95814(a)(3) and~~ is already registered in the tracking system and intends to provide cap-and-trade program advisory services to other registrant(s) must disclose the proposed relationship to the other registrant(s) to the Executive Officer and comply with the requirements of section 95814(a)(3)(B) prior to providing the advisory services. ~~provide the notarized letter from his/her employer no later than October 1, 2014.~~ Failure to provide such a letter by the deadline will result in suspension, modification, or revocation of ~~his/her~~the individual's tracking system account.

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(6) Individuals identified by registered entities pursuant to sections 95830(c)(1)(B),(C),~~(I)~~(J), and ~~(J)~~(L) are not eligible to register as voluntarily associated entities.

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

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~~(c) A registered entity that has had its holding account revoked pursuant to section 95921(g)(3) 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.

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§ 95830. Registration with ARB.

(a) General Provisions.

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

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

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

(b) Entities Eligible for Registration. ~~Eligibility and Restrictions:~~

(1) An entity must qualify for registration in the tracking system as a covered entity (pursuant to section 95811), as an opt-in covered entity (pursuant to section 95813), or as a voluntarily associated entity (pursuant to section 95814). ~~If an entity is registering pursuant to section 95811 or 95813, the facility operator, fuel or CO_2 supplier, electric power entity, or operator of petroleum and natural gas systems, as applicable and as identified in section 95101(a)(1) of MRR must register pursuant to this section and meet all applicable requirements of this article. Alternatively, if the entity chooses to consolidate accounts pursuant to Section 95833, then at least one facility operator, fuel or CO_2 supplier, electric power entity, or operator of petroleum and natural gas systems, as applicable, of the entities in the direct corporate association must register pursuant to this section and meet all applicable requirements of this article for all entities included in the consolidated account.~~

(2) If an entity qualifies for registration pursuant to section 95811 or 95813, the facility operator, fuel or CO_2 supplier, electric power entity, or operator of petroleum and natural gas systems, as applicable and as identified in section 95101(a)(1) of MRR, must register pursuant to this section and meet all other applicable requirements of this article.

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

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

(B) If one entity has control over any of the entities in a group of entities applying for a consolidated account as measured by the indicia of control in section 95833(a), then the registration process must be initiated and completed by that entity. The controlling entity must complete all requirements and disclosures for each entity that is to be included within the consolidated account.

~~(2) An entity qualified to register cannot apply for more than one registration in the tracking system.~~

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

***

(c) Requirements for Registration. Registration is complete when the Executive Officer approves the registration and informs the entity of the approval.

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

(A) Name, physical and mailing addresses, ~~and~~ contact information, type of organization, date and place of incorporation, and ID number assigned by the incorporating agency;

(B) Names and addresses of the entity's directors and officers, and partners with over 10 percent of control over the partnership, if applicable;

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(E) A Government issued taxpayer or Employer Identification Number~~A U.S. Federal Tax Employer Identification Number~~, if assigned;

(F) ~~Data Universal Numbering System number, if assigned;~~

~~(G)~~ A ~~S~~statement of the basis for qualifying for registration pursuant to sections 95811, 95813, or 95814; ~~and~~

(G)~~(H)~~ Disclosure~~Identification~~ of all other entities with whom the entity has a direct corporate association or indirect corporate association that must be reported pursuant to section 95833(d), and a brief description of the association. Entities qualifying as voluntarily associated entities under section 95814(a)(1)(B) must complete this disclosure before they may hold allowances.~~When identifying direct corporate associations pursuant to section 95833(d) that are not registered in the Cap-and-Trade Program or in a GHG ETS to which California has linked pursuant to subarticle 12, an entity may opt to limit this identification by disclosing only those unregistered direct corporate associated entities that participate in a market related to the Cap-and-Trade Program in accordance with section 95830(c)(1)(H)1. Notwithstanding this option of a more limited disclosure, a registered entity that has a direct or indirect corporate association with another registered entity must always disclose the identity of all entities involved in the line of direct or indirect corporate associations between the two registered entities, even if such entities are not registered. An entity completing an application to register with ARB and for an account in the tracking system, or updating its information pursuant to sections 95833 and 95830(f)(1), must provide all applicable information required by section 95833(d)(1)-(2), or, for unregistered direct corporate associations only, the entity may opt to comply by disclosing unregistered direct corporate associations in accordance with section 95830(c)(1)(H)1.~~

~~1. As an alternative to disclosing all unregistered direct corporate associations pursuant to section 95833(d), an entity may disclose those unregistered direct corporate associated entities that trade, sell, or purchase for resale any natural gas, oil, electricity, or greenhouse gas emission instrument, or natural~~

~~gas, oil, electricity, or greenhouse gas emission instrument derivative or swap on exchanges. To disclose unregistered direct corporate associations, an entity also may submit the most recent information submitted to another government agency in the United States on one or more of the following official governmental forms or documentation as needed to meet the required disclosure: (1) Exhibit 21 of the Form 10-K submitted to the Securities and Exchange Commission by the registrant or an affiliate of the registrant; (2) the application for market-based rate authority, or update to such application, submitted by the registrant or an affiliate of the registrant to the Federal Energy Regulatory Commission pursuant to 18 CFR Part 35 and Order 697; (3) the application for registration with the National Futures Association, or update to such application, submitted by the registrant or an affiliate of the registrant as required by the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act; (4) Form 40 or Form 40S filed by the registrant or an affiliate of the registrant in accordance with the Commodity Futures Trading Commission's reporting rules; and/or (5) Part 1A of a Form ADV filed with the Securities and Exchange Commission by a registered investment advisor responsible for managing the registrant.~~

(H) An applicant that is a member of a direct corporate association may apply for a consolidated entity account to include other associated entities from within the direct corporate association. To do so, the applicant must identify each associated entity that will be assigned to its account, and each associated entity must provide an attestation signed by its officer or director to confirm that it seeks to be added to the consolidated entity account. The applicant must be able to demonstrate that it has the controlling ownership or authority to act on behalf of all members of the direct corporate association. The

applicant cannot be an entity that is a subsidiary to or controlled by another associated entity within the direct corporate association.

(I) An applicant that is a member of a direct corporate association whose members are not in a consolidated entity account must provide an allocation of the holding and purchase limits among the separate accounts established for any of its corporate associates that meets the requirements of section 95833(d)(1)(E).

(J)~~(I)~~ Names and contact information for all persons employed by the entity with knowledge of the entity's market position (current and/or expected holdings of compliance instruments and current and/or expected covered emissions).

(K)~~(J)~~ An entity registering as an opt-in covered entity must identify the year it intends to begin a compliance obligation, and the year must match the starting year for which the Executive Officer approved the entity as an opt-in covered entity pursuant to section 95813(b).

(L) Information required under sections 95923 for individuals serving as Cap-and-Trade Consultants and Advisors for entities participating in the Cap-and-Trade Program.

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

~~Applicants may be denied registration in the tracking system: 1. based on information provided; or 2. if the Executive Officer determines the applicant has provided false or misleading information; or 3. if the Executive Officer determines the applicant has withheld information material to its application.~~

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

(A) A holding account;

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

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

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

~~Any individual listed by the registering entity in its registration application in a capacity requiring access to the tracking system must comply with the Know-Your-Customer requirements pursuant to section 95834 before access to the tracking system will be granted.~~

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

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

(A) Based on the information provided;

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

(C) If the Executive Officer determines the applicant ~~individual~~ has withheld information material to the ~~his/her~~ registration;

(D) If an individual fails to comply with section 95834 Know-Your-Customer Requirements; or

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

(d) Registration Deadlines.

(1) An entity that meets or exceeds the inclusion thresholds in section 95812 must complete registration by December 31 of the year in which it reports to ARB emissions that exceed the inclusion threshold.

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

~~(A) Within 30 calendar days of the reporting deadline contained in MRR if the entity is not a covered entity as of January 1, 2013; or~~

~~(B) By January 31, 2012 or within 30 calendar days of the effective date of this regulation, whichever is later, for an entity that exceeds the inclusion thresholds in section 95812 for any data year 2009 through 2012.~~

~~(2) Any voluntary associated entity that intends to hold an ARB-issued compliance instrument must register with the accounts administrator prior to acquiring such compliance instruments.~~

(3) An entity applying as a voluntarily associated entity may register at any time.

~~(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.~~

(e)~~(f)~~ Updating Registration Information.

(1) When there is a change to the information registrants have submitted pursuant to section 95830(c)(1)(A)-(E) and (I), registrants must update the registration information within 30 calendar days of the change ~~unless otherwise specified below~~. When there is a change to the information registrants have submitted pursuant to section 95830(c)(1)(J), registrants must update the registration information within one year of the change. ~~Updates of information provided pursuant to section 95830(c)(1)(I) and (J) may be updated within one year of the change instead of within 30 calendar days of the change. If changes in information submitted pursuant to section~~

~~95830(c)(1)(H) are related to entities registered in the Cap-and-Trade Program or in a GHG ETS to which California has linked pursuant to subarticle 12, the information must be updated within 30 calendar days of the change. If changes in information submitted pursuant to section 95830(c)(1)(H) are related to entities which are not registered in the Cap-and-Trade Program or in a GHG ETS to which California has linked pursuant to subarticle 12, and which are not involved in the line of direct or indirect corporate associations between two registered entities, the information must be updated within one year of the change, instead of within 30 calendar days of the change.~~

(2) Updates of information on corporate associations provided pursuant to section 95830(c)(1)(G) must be updated on the schedule contained in section 95833(e). An entity qualifying as a voluntarily associated entity under section 95814(a)(1)(B) that did not complete the disclosure required by section 95833(c)(1)(G) at the time of registration may choose to complete that disclosure at any time; such an entity will only be allowed to hold allowances upon approval of the disclosure by the Executive Officer.~~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) Updates of information on Cap-and-Trade Consultants or Advisors provided pursuant to section 95830(c)(1)(L) must be updated per the schedule contained in section 95923(c).~~Pursuant to section 95921(g)(3), registration may be revoked or suspended if an entity does not update its registration as required in section 95830(f)(1).~~

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

(f)~~(g)~~ Information Confidentiality. The following information collected about individuals during the registration process will be treated as confidential by the Executive

Officer and the accounts administrator to the extent possible, and except as needed in the course of oversight, investigation, enforcement, and prosecution:

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

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(g)~~(h)~~ Linking. ~~When California links to an External GHG ETS, each entity must register into a jurisdiction based on the physical location information the entity must provide pursuant to section 95830(c)(1)(A).~~

(1) An entity located in California ~~or in a jurisdiction operating an External GHG ETS to which California has linked pursuant to subarticle 12 must register with the jurisdiction in which they are located~~ based on the physical location information the entity must provide pursuant to section 95830(c)(1)(A) must register with California.

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

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

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

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

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

(A) If an entity registered with California has a compliance obligation in an external GHG ETS to which California has linked pursuant to subarticle 12, then that entity may also register directly with that jurisdiction pursuant to that jurisdiction's registration requirements or the entity may request that the accounts administrator provide the entity's California registration application to the jurisdiction operating the linked

GHG ETS to facilitate registration in the linked jurisdiction. The entity may still need to submit registration attestations or other materials specific to the linked jurisdiction's registration requirements.

(B) If an entity registered with an external GHG ETS to which California has linked pursuant to subarticle 12 has a compliance obligation with California, then the entity may register with California by completing the process contained in sections 95830 and 95833 or may request that the accounts administrator of the external GHG ETS provide the entity's registration application submitted to the external GHG ETS to the California accounts administrator to facilitate registration in California. Regardless of whether the entity registers with California by completing the process contained in sections 95830 and 95833 or by requesting the external GHG ETS to submit the registration application materials to the California accounts administrator to facilitate registration in California, the entity must submit all California-specific registration attestations required by this article.

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

~~(i) Change of ownership. When the ownership of a facility changes, the following information must be submitted to ARB within 30 days of finalization of ownership change:~~

~~(1) A description of the acquisition and the effective date of the change of ownership including if the acquisition is the purchase of a facility or facilities from another entity or the purchase of an entity that owns a facility or facilities;~~

~~(2) Both the legal and operating names and the tracking system entity IDs of the entities owning the facility or facilities prior to the change of ownership;~~

~~(3) Both the legal and operating names and the tracking system entity ID of the purchasing entity, if any;~~

~~(4) Written direction whether the purchased facility or facilities will be added to a consolidated entity account or whether the purchased facility or facilities will~~

~~be associated with an entity that will opt-out of account consolidation pursuant to section 95833(f);~~

~~(5) Original signatures by a Director or Officer from the entities being purchased and the purchasing entity, notifying ARB of the change of ownership.~~

~~(6) Any changes or new information pursuant to section 95833.~~

~~(7) Written direction regarding the disposition of compliance instruments that must be transferred by the jurisdiction to the purchasing entity. Compliance instruments can be transferred only to the same account type, i.e., from a Compliance Account to a Compliance Account.~~

~~(8) If the change of ownership results in the closure of the tracking system account of the entity owning the facility or facilities prior to the change in ownership, the Executive Officer will close the account within 10 days of the change in ownership. It is the responsibility of the entities participating in the change of ownership to transfer any compliance instruments from tracking system accounts they control prior to closure.~~

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

§ 95831. Account Types.

(a) Accounts Created for Registered Entities.

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

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(5) Exchange Clearing Holding Accounts. When the Executive Officer approves registration for an entity identified as a voluntarily associated entity pursuant to section 95814(a)<u>(3)</u>~~(1)(C)~~, then the accounts administrator will create an exchange clearing holding account for the entity.

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(6) Annual Allocation Holding Account. When an entity qualifies for a direct allocation under ~~section 95870~~subarticle 9, the accounts administrator will create an annual allocation holding account for the entity.

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(D) Allocation of allowances to publicly owned electric utilities and electrical cooperatives ~~Allowances received by an entity through allocations~~ pursuant to subarticles 8 and 9~~section 95870(d)~~ will be transferred on January 1 of the vintage year of the allowances to the compliance accounts designated in the determination made by the entity pursuant to section 95892(b)(2)(A).

(E) Allocation of allowances to natural gas suppliers ~~Allowances received by an entity through allocations~~ pursuant to ~~section 95870(h)~~subarticles 8 and 9 will be transferred on January 1 of the vintage year of the allowances to the entity's compliance account pursuant to section 95893(b)(1)(B).

(F) Allocation of allowances to industrial entities, universities, public service facilities, and legacy contract generators~~Allowances received through allocations~~ pursuant to sections ~~95870(e), (f), and (g)~~ subarticles 8 and 9 will be transferred to the entity's holding account on January 1 of the vintage year of the allowances.

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

(H) Allocation of allowances to waste-to-energy facilities will be transferred on January 1 of the vintage year of the allowances to the entity's compliance account pursuant to section 95852(k).

(I) Allocation of allowances to suppliers of liquefied natural gas will be transferred on January 1 of the vintage year of the allowances to the entity's holding account or compliance pursuant to section 95852(l)(1).

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

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

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

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

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

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

~~(c) Account Closure.~~

~~(1) A registered entity's accounts will be closed after the Executive Officer receives a report that an entity has ceased operation pursuant to MRR section 95101(h).~~

~~(2) A voluntarily associated entity's accounts may be closed if no compliance instruments are transferred into or out of the accounts for a period of three years.~~

~~(3) Compliance instruments needed to fulfill the entity's compliance obligation will be drawn first from the entity's Compliance Account and then from the entity's~~

~~Holding Account if the Compliance Account does not contain sufficient compliance instruments to meet the compliance obligation.~~

~~(4) Compliance instruments remaining in accounts closed by the Executive Officer and not needed to fulfill a compliance obligation will be consigned to auction pursuant to section 95910(d) on behalf of the registered entity.~~

(~~d~~c) Additional accounts may be created by the Executive Officer to implement 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.

§ 95832. Designation of Representatives and Agents.

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

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

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(3) The primary account representative and any alternate account representative must attest, ~~in writing~~pursuant to section 95803(a), to ARB as follows: "I certify under penalty of perjury under the laws of the State of California that I was selected as the primary account representative or the alternate account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to compliance instruments held in the account. I certify that I have all the necessary authority to carry out the duties and responsibilities contained in title 17, article 5, sections 95800 et

seq. on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the accounts administrator or a court regarding the account.";

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

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

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

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

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

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

(A) Any prior attestation signed by an account representative and any signature of an officer of the entity responsible for the conduct of the primary account representative and alternate account representative

will remain applicable even if account representative roles are changed.

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

(C) A new attestation by an officer of the entity responsible for the conduct of the primary account representative and alternate account representatives is not required if the officer previously submitted a signed attestation to designate the primary account representative or alternate account representative.

(4) A primary account representative may be changed to an alternate account representative on the same account and an alternate account representative may be changed to the primary account representative on the same account at any time upon receipt by the accounts administrator of a designation of a primary account representative or alternate account representative under section 95830(c). The ability to change roles without the submittal of updated complete documentation is limited to account representatives currently designated as a primary account representative or alternate account representative for an account in the tracking system established under section 95830(c). A complete application is required to reinstate an account representative that was previously, but is not currently, designated as a primary account representative or alternate account representative for an account in the tracking system established under section 95830(c).

(A) A prior attestation signed by an account representative and a signature of an officer of the entity responsible for the conduct of the primary account representative and alternate account representative will be applicable as long as the representative remains designated as a primary account representative or alternate account representative for an account in the tracking system established under section 95830(c).

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

(C) A new attestation by an officer of the entity responsible for the conduct of the primary account representative and alternate account representatives is not required if the officer previously submitted a signed attestation to designate the primary account representative or an alternate account representative.

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

§ 95833. Disclosure of Corporate Associations.

(a) Criteria for Determining Corporate Associations.

(1) A "corporate association" exists when one entity has an ownership interest in or control over a second entity. The following indicia of control determine ownership or control:~~An entity has a corporate association with another entity, regardless of whether the second entity is subject to the requirements of this article, if either one of these entities:~~

(A) ~~Holds more than 20 p~~Percent of ownership of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other entity;

(B) ~~Holds or can appoint more than 20 p~~Percent of common owners and directors of the other entity;

(C) ~~Holds more than 20 p~~Percent of the voting power of the other entity;

(D) In the case of a partnership other than a limited partnership, ~~holds more than 20~~ percent of the interests of the partnership;

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

(F) In the case of a limited liability corporation, ~~owns more than 20~~ percent of ownership in the other entity regardless of how the interest is held.

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

~~(A) Holds more than 50 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 50 percent of common directors of the other entity;~~

~~(C) Holds more than 50 percent of the voting power of the other entity;~~

~~(D) In the case of a partnership other than a limited partnership, holds more than 50 percent of the interests of the partnership;~~

~~(E) In the case of a limited partnership, controls the general partner; or~~

~~(F) In the case of a limited liability corporation, owns more than 50 percent of the other entity regardless of how the interest is held.~~

(3) ~~An entity has a~~ A ~~"~~direct corporate association~~"~~ ~~with a second entity, regardless of whether the second entity is subject to the requirements of this article, if the~~ also exists when two entities are connected through a line of more than one direct corporate association.

(A) An entity (A) has a ~~"~~direct corporate association~~"~~ with another entity (B) if the two entities share a common parent ~~that is not registered into the California Cap-and-Trade Program~~ and that parent has a direct corporate association with each entity (A and B) when applying the indicia of control contained in section 95833(a)(2).

(B) An entity ~~with~~that has a ~~"~~direct corporate association~~"~~ with a second ~~registered~~ entity also has a direct corporate association with

any ~~registered~~ entity with whom the second ~~registered~~ entity has a direct corporate association.

(4) An entity has an "indirect corporate association" with another entity if ~~the two entities are both registered in the Cap-and-Trade Program and~~:

(A) The two entities do not have a direct corporate association; and

(B) The controlling entity's percentage of ownership or ~~other~~any indicia of control ~~under~~identified in section 95833(a)(1)~~(A), (B), (C), (D), or (F)~~ of the ~~indirectly~~ controlled entity is more than 20 percent but less than or equal to 50 percent~~, or in the case of a limited partnership, the controlling entity controls the general partner~~. If the two entities are connected through a chain of more than one corporate association, the indicia of control ~~under~~identified in section 95833(a)(1)~~(A), (B), (C), (D), (E) or (F)~~ is calculated by multiplying the percentages at each link in the chain of corporate associations starting with the last entity that is in a direct corporate association. An indirect corporate association exists between the two entities if the total percentage of control is more than 20 percent but less than or equal to 50 percent when multiplying the percentage of control at each link in the chain of corporate associations.

~~(C) For the purposes of the calculation in section 95833(a)(4)(B), if the condition specified in section 95833(a)(2)(E) applies to a link in the chain of corporate associations the indicia of control for that link in the chain of corporate associations will be set to 100%.~~

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(6) Direct Corporate Associations with Individuals Who Have Shared Roles. An individual who has access to the market positions (current and/or expected holdings of compliance instruments and current and/or expected covered emissions) of two or more entities registered in the tracking system or registered in an external GHG ETS to which California has linked pursuant to subarticle 12 is considered an individual who has shared roles. For the purposes of this requirement, Account Representatives, Account Viewing

Agents, Bidding Advisors, and all individuals disclosed pursuant to section 95830(c)(1)(J) are defined as having access to the market positions of the entities that they serve. It is the responsibility of the registered entity employing an individual as a Cap-and-Trade Consultant or Advisor pursuant to section 95923 to determine if the individual has access to the entity's market position. At the time an entity applies for registration, or within 10 calendar days of employing or contracting with an individual who has shared roles, a registered entity must either:

(A) Document that they have procedures and restrictions in place that prevents the individual from transmitting between the registered entities information on their respective market positions and to prevent the use of that information to inform the development and execution of procurement, transfer, and surrender of compliance instruments for another registered entity; or

(B) Declare that they have a direct corporate association and complete the corporate association disclosure requirements described in section 95833(d).

(b) Disclosure of Corporate Associations. ~~If California links to one or more GHG ETS pursuant to subarticle 12, then entities shall disclose direct and indirect corporate associations with entities registered with those linked programs.~~

(1) Disclosure of Associated Registered Entities. Entities must disclose all direct and indirect corporate associations with entities registered in the California Cap-and-Trade Program or in another external GHG ETS to which California has linked pursuant to subarticle 12.

(2) Disclosure of Unregistered Parent Entities. Entities must disclose all direct corporate associations with entities not registered in the California Cap-and-Trade Program or in another external GHG ETS to which California has linked pursuant to subarticle 12 if those entities have the degree of ownership interest in or control over the registered entity to meet the requirements of having a direct corporate association.

(3) Disclosure of Unregistered Entities in a Line of Corporate Associations Between Registered Entities. A registered entity that has a direct or indirect corporate association with another registered entity must disclose the identity of all entities involved in the line of direct or indirect corporate associations between the two registered entities, even if such entities are not registered.

(4) Disclosures of Direct Corporate Associations with Unregistered Entities in the United States or Canada. Entities that have direct corporate associations with unregistered entities in the United States or Canada that are otherwise not required to be disclosed must disclose those associations within 30 calendar days of a request by the Executive Officer. The disclosing entity may elect to disclose only those directly associated entities located in the United States or Canada that participate in a market related to the Cap-and-Trade Program.

(A) Entities participating in a market related to the Cap-and-Trade Program include only those that purchase and sell greenhouse gas emissions instruments, natural gas, oil, or electricity; or conduct exchange trades involving derivatives or swaps based on greenhouse gas emission instruments, natural gas, oil, or electricity.

(B) The disclosure of entities in related markets may be accomplished through the submission of the most recent information submitted to another government agency in the United States using one or more of the following official governmental forms or documentation as needed to meet the required disclosure: (1) Exhibit 21 of the Form 10-K submitted to the Securities and Exchange Commission by the registrant or an affiliate of the registrant; (2) the application for market-based rate authority, or update to such application, submitted by the registrant or an affiliate of the registrant to the Federal Energy Regulatory Commission pursuant to 18 CFR Part 35 and Order 697; (3) the application for registration with the National Futures Association, or update to such application, submitted by the registrant or an affiliate of the registrant as required by the Commodity Futures

Trading Commission pursuant to the Commodity Exchange Act; (4) Form 40 or Form 40S filed by the registrant or an affiliate of the registrant in accordance with the Commodity Futures Trading Commission's reporting rules; and/or (5) Part 1A of a Form ADV filed with the Securities and Exchange Commission by a registered investment advisor responsible for managing the registrant.

(5) Disclosures of Other Unregistered Entities Outside the United States and Canada. Entities that have direct corporate associations with other entities outside the United States and Canada that participate in a market related to the Cap-and-Trade Program that are not otherwise required to be disclosed must disclose those associations within 30 calendar days of a request by the Executive Officer.

(A) Entities participating in a market related to the Cap-and-Trade Program include only those that purchase and sell greenhouse gas emission instruments, natural gas, electricity, or oil; or conduct exchange trades involving derivatives or swaps based on greenhouse gas emission instruments, natural gas, oil, or electricity.

(B) Entities may disclose these associations using the documentation options listed in section 95833(b)(4)(B).

(c) Disclosure Exemptions.

(1) Any registered entity subject to affiliate compliance rules promulgated by state or federal agencies shall not be required to disclose information or take other action that violates those rules.

(2) An entity registering as a voluntarily associated entity pursuant to section 95814(a)(1)(B) solely to hold offsets is not required to disclose any direct or indirect corporate associations.

(d) Disclosure Requirements.~~If a registered entity has direct or indirect corporate association with another entity involved in determinations made pursuant to section 95833(a)(2), (3), (4) or (5), it must disclose the following information for each associated entity, unless, for unregistered direct corporate associated~~

~~enitites only, the registered entity discloses via official documentation pursuant to section 95830(c)(1)(H)1.:~~

(1) Entities disclosing direct or indirect corporate association must provide the following i~~I~~nformation to identify ~~the~~each reportable corporate association~~associated entity, including~~:

(A) Name, contact information, and physical address of the entity;

(B) ~~Whether the entity is parent or subsidiary;~~

~~(C)~~ ~~Holding account number~~Tracking system entity identification, if applicable;

~~(D) Primary account representative, if applicable;~~

~~(E) Data Universal Numbering System number, if assigned;~~

(~~F~~C) A government issued Taxpayer Identification Number or ~~U.S. federal tax~~ Employer Identification Number, if assigned; and

(~~G~~D) Place and Date of Incorporation, if applicable;

(E) For direct corporate associations with registered entities only, the percentage share of the holding limit and purchase limit assigned to each entity opting out of account consolidation pursuant to section 95830(c)(1)(I); the sum of the shares must equal 100 percent.

(2) Entities that have disclosable corporate associations must identify whether the type of corporate association is direct or indirect.

(A) Entities identifying an indirect corporate association must provide a brief description of the association, including information sufficient to explain the entity's evaluation of the indicia of control in section 95833(a)(1) that was used to determine the type of corporate association disclosed for each associated entity.

(B) Entities identifying a direct corporate association must identify the nature of the associated entity as a parent, a subsidiary, or an entity with a common parent, but need not include an evaluation of the indicia of control.

~~(2) The type of corporate association and a brief description of the association, to include information sufficient to explain the entity's evaluation of the~~

~~measures contained in section 95833(a) used to determine the type of corporate association disclosed.~~

(3) Methods of Disclosure. All corporate association disclosures required by this section must be provided in a manner described in section 95803(a).

(e) Disclosure Timing. The entity must disclose the information pursuant to section 95833(d)~~ to the Executive Officer~~:

(1) ~~When registering~~At the time of registration pursuant to section 95830;

(2) ~~At any time after registering~~Within 30 calendar days of the creation~~ when~~ of a direct or indirect corporate association or of a change in the type of a corporate association ~~is created or~~ ~~exists;~~involving registered entities pursuant to sections 95833(b)(1) or 95833(a)(6)(B), or registered and unregistered entities pursuant to section 95833(b)(2) and (3);

(3) Within one year of a modification if the changes in information involve only unregistered entities disclosed pursuant to sections 95833(b)(4) and (5); ~~Within at least one year of the change, any changes to the information disclosed on direct and indirect corporate associations, pursuant to section 95830(f)(1); and~~

(4) No later than 10 calendar days prior to the auction ~~registration~~ application deadline established in section 95912 when ~~reporting~~disclosing a change ~~to the information disclosed if the changes~~ related to another entity registered in the Cap-and-Trade Program or to entities registered into the California Cap-and-Trade Program and other external GHG ETS to which California has linked pursuant to subarticle 12, if the disclosing entity intends to participate in the auction; and~~, otherwise the entity may not participate in that auction~~.

(5) Within one year for all other changes.

~~(f) Account Consolidation of Accounts for Corporate Associations.~~

~~(1) By January 1, 2013, the Executive Officer will consolidate the accounts held by entities registered into the California Cap-and-Trade Program pursuant to section 95830 that are part of a direct corporate association into a consolidated set of accounts.~~

~~(2) By October 1, 2012, the primary account representative or alternate account representative for all entities that are part of a direct corporate association and intend to have their accounts consolidated must provide to the Executive Officer:~~

~~(A) Confirmation of the corporate association if not already provided;~~

~~(B) Confirmation of the entity's intent to have its account consolidated with that of the other entities within the corporate association; and~~

~~(C) A change of primary account representative and alternate account representative to new representatives that will serve as the primary account representative and alternate account representatives for the consolidated accounts.~~

~~(1) When completing the requirements for registration, entities in a direct corporate association may elect to register for a single consolidated account, or register for separate accounts.~~

~~(2)(3) To obtain separate accounts, entities in a direct corporate association must identify which facilities will be assigned to each separate account. To opt out of consolidation of accounts, the primary account representative or alternate account representative for an entity within the corporate association must provide to the Executive Officer:~~

~~(3) For each account, the applicants must provide:~~

~~(A) ConfirmationA description of the corporate association pursuant to section 95833(d)if not already provided;~~

~~(B) An attestation, signed by thean officer or director of the entity who is responsible for the conduct of the account viewing agent and is one of the current officers or directors disclosed pursuant to section 95830(c)(1)(B), that the entity seeks to obtain separate accounts to manage its compliance obligationsexclusion of its account from the consolidated set of accounts to be created; and~~

~~(C) Confirmation of the opt-out decision by the primary account representative or alternate account representative for any entity opting out of consolidation, as well as the primary account representative or~~

~~alternate account representative designated for any entities remaining in the corporate association consolidated account pursuant to section 95833(f)(2)(C). The applicant must provide an allocation of the holding and purchase limits among the separate accounts that meets the requirements of section 95833(d)(1)(E).~~

~~1. This confirmation must include an allocation of shares of the holding limit between the consolidated corporate association and any associated entities opting out of consolidation.~~

~~2. This confirmation must include an allocation of shares of the purchase limit between the consolidated corporate association and any associated entities opting out of consolidation.~~

~~(4) Entities registered in the California Cap-and-Trade Program that have a direct corporate associationIf an entity registered in the California Cap-and-Trade Program has a direct corporate association with an entity(ies) registered in an External Greenhouse Gas Emissions Trading System to which California has linked its Cap-and-Trade Program pursuant to subarticle 12 may not consolidate accounts., the entity registered in the California Cap-and-Trade Program must opt out of consolidation with the entity(ies) registered in an External Greenhouse Gas Emissions Trading System and meet all the requirements of section 95833(f)(3).~~

~~(5) To consolidate the accounts for a corporate association the Executive Officer shall instruct the accounts administrator to:~~

~~(A) Create a single consolidated set of accounts for members of a corporate association that accept consolidation;~~

~~(B) Include a compliance account only for a corporate association with at least one member entity that accepts consolidation that is eligible for a compliance account;~~

~~(C) Include a limited use holding account only for a corporate association with at least one member entity that accepts consolidation that is eligible for a limited use holding account;~~

~~(D) Complete all valid transfer requests in the system involving any accounts for the members of the corporate association;~~

~~(E) Transfer all compliance instruments in the existing accounts held by the member entities to the appropriate corporate association accounts; and~~

~~(F) Close the accounts held by the individual member entities of the corporate association that have not opted out.~~

~~(6) Entities with a direct corporate association may changemust make their decision to consolidate accounts or opt-out of consolidation during the account application process specified in section 95830only once each year.~~

~~(7) Entities may request a change to their consolidated accounts only once per compliance period, and no later than June 30 of the last year of the compliance period. Any approved changes would become effective at the beginning of the next compliance period. If some or all of the primary and alternate account representatives who are employees of a registered entity have primary responsibility for developing and executing procurement, transfer, and surrender of compliance instruments of another registered entity or other registered entities within the tracking system, the entities will be considered to have a direct corporate association and the requirements in section 95833(f) apply. If any primary account representative or alternate account representative of a registered entity has access to the market position (current and/or expected holdings of compliance instruments and current and/or expected covered emissions) for multiple registered entities and is not disclosed pursuant to section 95923, and can use that market position information without restriction to inform the development and execution of procurement, transfer, and surrender of compliance instruments for any registered entity, the entities for which the primary account representative or alternate account representative has access to the market position will be considered to have a direct corporate association and the requirements in section 95833(f) apply.~~

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

§ 95834. Know-Your Customer Requirements.

(a) General Requirements.

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(4) Individuals with a criminal conviction in any jurisdiction in the five previous years constituting a felony under U.S. federal law or California law, or the equivalent thereof,~~in the United States~~ are ineligible for registration and participation in the Cap-and-Trade Program.

(b) The individual must provide documentation of the following:

(1) Name;

(2) The address of the primary residence of the applicant, which may be shown by any of the following:

(A) A valid government-issued identity card or government-issued document~~issued by a state~~ with an expiration date;

~~(B) Any other government-issued identity document containing an individual's primary address; or~~

(~~C~~B) Any other document that is customarily accepted by the State of California as evidence of the primary residence of the individual;

(3) Date of birth;

~~(4) Employer name, contact information, and address;~~

~~(5) Either a passport number or driver's license number, if one is issued;~~

(4~~6~~) Proof of an open bank account in the United States, except as provided in section 95834(b)(4)(B) below;

(A) The proof must be in the form of a bank statement dated no earlier than 3 months prior to submission, must identify the individual holding the account, and must contain the name and business address of the bank.

(B) If an applicant will only represent a covered entity located outside of the United States, the applicant may either provide:

1. Proof of an open bank account in the United States, or

2. Documentation of an open bank account in the country in which the covered entity is located. This documentation must be accompanied by a signed attestation of an officer of the applicant's employer to ARB as follows:

"I certify under penalty of perjury under the laws of the State of California that the person requesting access to the market tracking system will be designated as an account representative for this entity. This entity is a covered entity under the California Cap-and-Trade Regulation and has no personnel residing in the United States with the authority to take actions that are binding on all persons who have an ownership interest with respect to compliance instruments held in the account for this entity."

(5~~7~~) Employment or other relationship to an entity that has registered or has applied to register with the California Cap-and-Trade Program if the individual is or will be listed by an entity registering pursuant to section 95830;

(6~~8~~) A government-issued document providing photographic evidence of identity of the applicant which may include:

(A) A valid government-issued identity card or driver's license ~~issued by a state~~ with an expiration date and date of birth; or

(B) A passport; and

(7~~9~~) Any criminal conviction declared in any jurisdiction during the previous five years constituting a felony under U.S. federal law or California law, or the equivalent thereof~~in the United States~~. This disclosure must include the type of violation, jurisdiction, and year.

(c) An individual who will become an account representative or viewing agent of a covered entity or opt-in covered entity as defined in section 95802 may choose to provide documentation pursuant to section 95834(b) directly to their employer instead of to ARB.

(1) The covered entity or opt-in covered entity must verify the identity of the individual and confirm that the individual does not have a criminal conviction

constituting the equivalent of a felony under U.S. federal law or California law, or the equivalent thereof, in any jurisdiction during the previous five years.

(2) An authorized representative of the covered entity must complete an attestation to verify the accuracy and veracity of the documentation submitted pursuant to section 95834(b).

(3) The documents submitted by the individual shall be retained by the entity, and the Executive Officer or his/her designated representative shall be permitted, at any time, to review and audit the documentation. The covered or opt-in covered entity must provide this documentation to the Executive Officer or his/her designated representative within 5 calendar days of a request by the Executive Officer.

(~~c~~d) Verification of information.

(1) ~~Any copy of a d~~Documentation submitted pursuant to section 95834 must be notarized by a notary public no more than three months before submittal.

(2) The notary stamp or seal, the notary public's name, the county or state of the notary public's place of business, and the commission expiration date must be legible.

(3) If a notary is obtained from outside of the United States, an apostille must be submitted to confirm that the individual who notarized the document had valid commission at the time that the document was notarized. The apostille must be attached to the notarized document.

(~~2~~4) The Executive Officer may re-verify all documents required pursuant to Section 95834 at least every two years. To allow verification, upon request and within ten days, the individual must provide updated documentation required pursuant to 95834(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.

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

(a) Assignment of Facilities to Entity Accounts.

(1) Subdivision of MRR Facilities with Distinct ARB IDs Currently Registered in the Tracking System. The following provisions apply to facilities that are currently registered in the Tracking System and wish to change their registration type or account assignment(s):

(A) A facility may not be subdivided without a demonstration of a change to the continuity of its ownership and control, as defined in MRR, to one or more of its constituent units.

(B) The subdivided units must complete all the requirements of MRR before they can be reassigned from existing tracking system accounts, including the assignment of an ARB ID to each subdivided unit.

(C) The subdivided units must complete the disclosure process outlined in section 95835(b).

(D) The entity seeking the subdivision must indicate the existing accounts to which the subdivided facilities will be assigned or complete an application for a new account, or closure of an existing account, if applicable.

(2) Assignment of a New Facility to an Account. The owner or operator of a new facility that has received an ARB ID but that is not yet assigned to a tracking system account must register pursuant to section 95830 and request either a new account or assignment of the facility to an existing account.

(3) Changing Account Assignments within a Direct Corporate Association. Members of a direct corporate association may request a change to the distribution of facilities within their set of accounts only once per compliance period. Approved changes will be effective at the beginning of the next compliance period provided that the request is made by June 30 of the year immediately preceding that next compliance period.

(b) Change of Facility Ownership. When the ownership of a facility changes, the following information must be submitted to ARB within 30 calendar days of finalization of the ownership change:

(1) A description of the acquisition and the effective date of the change of ownership, including whether the acquisition is the purchase of a facility or facilities from another entity or the purchase of an entity that owns a facility or facilities;

(2) Both the legal and operating names and the tracking system entity IDs of the entities owning the facility or facilities prior to the change of ownership;

(3) The legal name, operating name, and the tracking system entity ID of the purchasing entity, if any;

(4) Written direction regarding whether the purchased facility or facilities will be added to a consolidated entity account or whether the purchased facility or facilities will be associated with an entity that will opt-out of account consolidation pursuant to section 95833(f);

(5) Documentation with a signature (original or electronic pursuant to section 95803(a)) by a director or officer from the entity or entities being purchased and the purchasing entity, notifying ARB of the change of ownership;

(6) Any changes to disclosures or new disclosures pursuant to section 95833;

(7) Direction regarding the disposition of compliance instruments that must be transferred by the jurisdiction to the purchasing entity. Compliance instruments can be transferred only between accounts of the same type (i.e., from a compliance account to a compliance account);

(8) It is the responsibility of the entities participating in the change of ownership to transfer any compliance instruments from tracking system holding accounts that they control prior to closure. Prior to closure, the Executive Officer may transfer compliance instruments from an entity's compliance account to its holding account.

(c) Eligibility for a Change of Registration Type.

(1) Eligibility of an Opt-In Covered Entity to Change Its Registration Type.

(A) After a compliance period, an opt-in covered entity may choose to exit the Program or change its registration type to a voluntarily associated entity provided that it meets the requirements specified in section 95813(g).

(B) An opt-in covered entity choosing to exit the Program must fulfill its compliance obligations as required pursuant to subarticle 7 and report and verify emissions, product, and any other data required pursuant to MRR for its final year with a compliance obligation to allow for any true-up allocations pursuant to subarticles 8 and 9 before requesting a change of registration type.

(2) Eligibility of a Covered Entity or Opt-In Covered Entity to Change Its Registration Type.

(A) Effect of Reduced Emissions on a Covered Entity's Compliance Obligation. A covered entity that reports annual covered GHG emissions less than 25,000 metric tons of CO_2e per year during one entire compliance period may request a change to its registration type from the Executive Officer by the deadlines specified in section 95835(e)(1)(A). If the covered entity does not request a change by the deadline and if the covered entity is not an opt-in covered entity, then the Executive Officer will change the type of the entity to a voluntarily associated entity.

(B) Effect of a Facility Shutdown on a Covered Entity's Compliance Obligation. Once a covered or opt-in covered entity has fully met the reporting cessation requirements of section 95101(i) of MRR due to ceasing to operate, full facility shutdown, and cessation of all activities subject to reporting under section 95101(c) of MRR, ARB will begin the account closure process pursuant to section 95835(f). Fuel suppliers and EPEs may not claim eligibility for a change of registration type under this provision.

(3) A voluntarily associated entity is eligible to request to exit the Cap-and-Trade Program at any time.

(4) The Executive Officer may close the account of a voluntarily associated entity if no compliance instruments are transferred into or out of the account for a period of two years.

(d) Options for Changing Registration Type. When an entity qualifies for a change in registration type pursuant to section 95835(c), the following shall apply:

(1) A covered entity may remain in the Cap-and-Trade Program as an opt-in covered entity pursuant to section 95813(h); or

(2) A covered entity or a opt-in covered entity may remain in the Cap-and-Trade Program as a voluntarily associated entity pursuant to section 95814; or

(3) An entity eligible for a change in registration type may exit the Cap-and-Trade Program pursuant to section 95835(f).

(e) If a covered entity or opt-in covered entity qualifies for a change in registration type, it may request a change in type by completing the following requirements:

(1) Request Deadlines.

(A) A covered entity requesting a change in registration type pursuant to section 95835(c)(2)(A) must make the request to the Executive Officer by September 30 of the first calendar year after the end of a compliance period.

(B) A covered entity or opt-in covered entity requesting a change in registration type pursuant to section 95835(c)(2)(B) has 30 days from the completion of the MRR cessation of reporting provisions per section 95101(i) to request to remain in the Program as a voluntarily associated entity.

(C) A covered entity whose request to be an opt-in covered entity pursuant to section 95813(h) was approved by the Executive Officer must request a change in registration type by September 30 of the same year as the deadline specified in section 95813(h).

(D) An opt-in covered entity that intends to exit the program entirely must request a change in registration type from the Executive Officer by September 30 of the first calendar year immediately after the end of a compliance period.

(2) A covered entity or opt-in covered entity that qualifies for account closure pursuant to section 95835(c)(2)(B) must, after fulfilling its compliance obligation for its final year of operations pursuant to section 95856 and

addressing final allocation provisions pursuant to section 95835(f), elect one of the following options:

(A) Request to retain its holding account, comply with MRR cessation of reporting provisions pursuant to section 95101(h) or (i), and remain in the tracking system as a voluntarily associated entity as defined in sections 95814 and 95911(d); or

(B) Request to consolidate its holding and compliance accounts with an existing account held by another entity with whom it has a direct corporate association and comply with MRR cessation of reporting provisions pursuant to section 95101(h) or (i); or

(C) Request to close its tracking system accounts, comply with MRR cessation of reporting provisions per section 95101(h), and exit the Program.

(f) Account Closure for Entities Exiting the Program.

(1) Return of Initial Allocation for Entities Exiting the Program. An entity may not exit the Program pursuant to section 95835 until, as specified by this section, all true-up allocation is calculated, allowances are allocated, any negative allowance allocation balance is returned, and allowances allocated for years in which the entity is no longer a covered entity are returned. If an entity has met the cessation requirements pursuant to MRR section 95101(h) or (i) and remains in the Program solely to meet the requirements of section 95835(f), then the entity need not report and verify data pursuant to MRR for any time period after which the MRR cessation requirements have been met.

(A) The entity must return to the Executive Officer a number of allowances equal to the initial allowance allocation for every budget year for which the entity incurred no compliance obligation.

(B) If eligible for true-up allowance allocation for any data year, the entity shall receive the true-up allowance allocation by the allocation date for that year. If the true-up allocation value is positive, then the Executive Office will allocate true-up allowances to the entity. If the true-up allocation value is negative, then the entity must return to the

Executive Officer a number of allowances that is equal to the absolute value of the negative true-up allowance allocation.

(C) If the entity has a negative allowance allocation balance pursuant to section 95890(i) or any other section of this article, then the entity must return a number of allowances to the Executive Officer that is equal to the absolute value of the negative balance.

(D) To return allowances to the Executive Officer, an entity must place the appropriate number of allowances into its compliance account and notify the Executive Officer. The allowances are considered to be returned only after they have been removed from the compliance account by the Executive Officer.

1. If an entity fails to return allowances pursuant to section 95835(f)(1)(D), then ARB will determine the number of violations pursuant to section 96014.

(2) When an entity requests that ARB close its account in the tracking system, it must transfer all compliance instruments out of its holding account before the account can be closed. If the entity has compliance instruments in its compliance account when a request for account closure is submitted, then the entity may request that ARB either:

(A) Transfer the compliance instruments from its compliance account to the entity's holding account to allow the entity to transfer the allowances out of its account; or

(B) Transfer the compliance instruments from the compliance account to the compliance account of another registered entity.

(3) When the entity's account is clear of compliance instruments, or if the transfers of compliance instruments are not completed within 30 days after the closure request, then the account will be closed and the remaining compliance instruments consigned to auction pursuant to section 95910(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.

§ 95840. Compliance Periods.

Duration of Compliance Periods is as follows:

***

(d) If U.S. EPA has approved California's plan for compliance with the Clean Power Plan, as memorialized by publication in the Federal Register and Code of Federal Regulations, then compliance periods starting January 1, 2021 shall be as follows:

(1) The fourth compliance period starts on January 1, 2021, and ends on December 31, 2022.

(2) The fifth compliance period starts on January 1, 2023, and ends on December 31, 2024.

(3) The sixth compliance period starts on January 1, 2025, and ends on December 31, 2027.

(4) The seventh compliance period starts on January 1, 2028, and ends on December 31, 2029.

(5) The eighth compliance period starts on January 1, 2030, and ends on December 31, 2031.

(6) Each subsequent compliance period after the eighth compliance period has a duration of two calendar years.

(e) If U.S. EPA has not approved California's plan for compliance with the Clean Power Plan by January 1, 2019, including the specified compliance periods in section 95840(d), then the fourth compliance period starts on January 1, 2021, and ends on December 31, 2023, and each subsequent compliance period has a duration of three calendar years.

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

§ 95841. Annual Allowance Budgets for Calendar Years 2013-20~~20~~50.

(a) The California GHG Allowance Budgets for the years 2013 to 2031 are set as described in Table 6-1 and Table 6-2.

(b) The California GHG Allowance Budgets for the years 2032 to 2050 are calculated by the following equation:

$$Budget_t = 193.8 - 6.7 \times n$$

Where:

"$Budget_t$" is the California GHG Allowance Budget for year "t" expressed in millions of allowances; and

"n" is the number of years removed from the year 2031.

Table 6-1: 2013-2020 California GHG Allowances Budgets

Compliance Period	Budget Year	Annual Allowance Budget (Millions of CA GHG Allowances)
~~First Compliance Period~~1	2013	162.8
	2014	159.7
~~Second Compliance Period~~2	2015	394.5
	2016	382.4
	2017	370.4
~~Third Compliance Period~~3	2018	358.3
	2019	346.3
	2020	334.2

Table 6-2: 2021-2031 California GHG Allowances Budgets

Compliance Period	Budget Year	Annual Allowance Budget (millions of CA GHG allowances)
4	2021	320.8
	2022	307.5

5	2023	294.1
	2024	280.7
6	2025	267.4
	2026	254.0
	2027	240.6
7	2028	227.3
	2029	213.9
8	2030	200.5
	2031	193.8

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) Program Requirements~~:~~. The end-user, or VRE participant acting on behalf of the end-user, must meet the requirements of this section. Generation must be new and not have served load prior to July 1, 2005. Allowance retirement for purposes of voluntary renewable electricity will begin in 2014 for 2013 generation, and will continue in the same manner for subsequent years. Allowances will be retired annually from the Voluntary Renewable Electricity Reserve Account for the preceding year's eligible and approved generation in order of increasing vintage year until the account has been exhausted. For the year in which available allowances are exhausted, allowance retirement will be pro-rated among all eligible and approved generation. Voluntary renewable electricity must be directly delivered to California. RECs must represent generation that occurred during the year for which allowance retirement is requested. ~~The~~ RECs shall be retired before the submittal of the request to retire allowances pursuant to this section.

(1) Generator Eligibility. Each generator must meet one of these criteria:

(A) Be certified as RPS-eligible by the California Energy Commission;

(B) Received an incentive under the California Solar Initiative Program; or,

(C) Be a solar generation installation interconnected with the distribution system of a California EDU.

(b) Reporting Requirements. The end-user, or the VRE participant acting on behalf of the end-user, requesting allowance retirement for eligible generation must meet the following requirements for the period in which allowance retirement is being requested:

(1) By July 1 of each year, provide a written request for allowance retirement from the Voluntary Renewable Electricity Reserve Account and all required documentation for the previous year's eligible generation or REC purchases. Request must meet the requirements below~~ and include the following information~~:

(A) Report to ARB the quantity of renewable electricity in MWh~~s and/or~~, the number of RECs generated during the previous year and designated for VRE allowance retirement from each eligible generator, and the total quantity of MWh for all eligible generators.~~from an eligible renewable electricity generator that meets the requirements of 95841.1(b)(2) or (3), as applicable;~~

(B) Generator eligibility must be demonstrated by providing to ARB:

1. A California Energy Commission RPS identification number; or

2. Documentation from an EDU that demonstrates that an incentive payment for each generator was received or approved under California's Solar Electric Incentive Program; or

3. Documentation from an EDU approving interconnection to the EDU's distribution system.

~~(B) Generator of the renewable electricity or RECs must be certified as RPS eligible by the California Energy Commission, or must meet design and installation standards pursuant to the California Energy Commission's Guidelines for California's Solar Electric Incentive Programs in effect for the year in which the system received incentive approval:~~

~~1. first edition, December 2007;~~

~~2. second edition, December 2008;~~

~~3. third edition, June 2010;~~

~~4. fourth edition, July 2011; or~~

~~5. fifth edition, January 2013~~

~~(C) An approval of incentive claim must be submitted by end-users, or the VRE participants acting on behalf of the end-user choosing to meet (B) above by meeting the California Energy Commission's design and installation standards pursuant to the California Energy Commission's Guidelines for California's Solar Electric Incentive Programs in effect for the year in which the system was installed:~~

~~1. first edition, December 2007;~~

~~2. second edition, December 2008;~~

~~3. third edition, June 2010;~~

~~4. fourth edition, July 2011; or~~

~~5. fifth edition, January 2013;~~

~~(D) Contract, tracking system data, or settlement data for the purchase of the electricity or RECs associated with the generation of the electricity~~;

(C) If WREGIS RECs were created for the generation, provide the WREGIS identification number for each generator and REC retirement report.

(D) If WREGIS RECs were not created for the generation, provide alternative tracking system data documenting the month and year of the generation and documentation that the RECs were not used in any other mandatory or voluntary program.

~~(E) Contract, tracking system data, or settlement data for sale of the electricity or RECs associated with the generation of the electricity to the end-user or entity purchasing on behalf of the end-user;~~ and

(~~F~~E) Submit the following attestations:

1. 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, or sold, any renewable electricity credits or any

claims to the emissions, or lack of emissions, for electricity for which I am seeking ARB allowance retirement, in any other voluntary or mandatory program."

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, Cal. Code of Regs. article 5, and by doing so, I am now subject to all regulatory requirements and enforcement mechanisms of this voluntary renewable electricity program and subject myself to the jurisdiction of California as the exclusive venue to resolve any and all disputes."

~~(2) VRE Participants seeking allowance retirement for renewable electricity generation from an eligible facility > 200 KW nameplate capacity must submit the following with the report required in this section, for which the VRE participant is seeking allowance retirement:~~

~~(A) Provide the generator's RPS certification identification number, as determined by the California Energy Commission, or proof that each facility or system has met design and installation standards pursuant to the California Energy Commission's Guidelines for California's Solar Electric Incentive Programs in effect for the year in which the system received incentive approval:~~

~~1. first edition, December 2007;~~

~~2. second edition, December 2008;~~

~~3. third edition, June 2010;~~

~~4. fourth edition, July 2011; or~~

~~5. fifth edition, January 2013;~~

~~(B) MWhs of renewable electricity generated designated for VRE retirement;~~

~~(C) Number of RECs designated for VRE retirement, as applicable; and~~

~~(D) WREGIS REC Retirement Compliance Report, as applicable.~~

~~(3) VRE participants seeking allowance retirement for renewable electricity generating from an eligible facility ≤ 200 KW nameplate capacity must submit~~

~~the following with the report required in this section. Applicants may aggregate eligible systems, but must submit one application under one entity:~~

~~(A) Provide the generator's RPS certification identification number, as determined by the California Energy Commission, or must meet design and installation standards pursuant to the California Energy Commission's Guidelines for California's Solar Electric Incentive Programs in effect for the year in which the system received incentive approval:~~

~~1. first edition, December 2007;~~

~~2. second edition, December 2008;~~

~~3. third edition, June 2010;~~

~~4. fourth edition, July 2011; or~~

~~5. fifth edition, January 2013;~~

~~(B) MWhs of renewable electricity generated;~~

~~(C) Number of RECs, as applicable; and~~

~~(D) WREGIS REC Retirement Compliance Report, as applicable.~~

(c) Allowance Retirement. The number of allowances ~~requested to be~~ retired from the Voluntary Renewable Electricity Reserve Account for a VRE participant in a given year are~~,~~ calculated as follows:

$$\cancel{\text{Number of MT } CO_2e = MWh \times EF}$$

$$VRE_{retired} = MWh_{VRE} \times EF_{unspecified}$$

Where:

"~~Number of MT CO_2e,~~$VRE_{retired}$" ~~rounded down to the nearest whole ton,~~ is the number of allowances to be retired from the Voluntary Renewable Electricity Reserve Account for the VRE participant, rounded down to the nearest whole ton;

"~~MWh~~MWh_{VRE}" is the ~~MWh~~amount of voluntary renewable electricity, in MWh, that is ~~claimed and~~ generated in the previous year by the VRE participant,~~from a~~

~~generator that~~ meets the eligibility requirements of this article and is approved by ARB; and

"~~EF~~$EF_{unspecified}$" is the default CO_2e emissions factor ~~equivalent to the default emission factor~~ for unspecified power, pursuant to section 95111(b)(1) of MRR. ARB shall determine the actual MWh of voluntary renewable electricity purchases that occurred during the period indicated in the documentation. ARB shall retire allowances from the Voluntary Renewable Electricity Reserve Account in an amount up to the number of MT CO_2e represented by actual voluntary renewable electricity purchases, based on actual MWh purchases and the emissions factor determined pursuant to this section.

~~(d) 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 the requirements in section 95841.1(b) will always be considered to have satisfied section 95841.1(b), 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.

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

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

(c) Operators of cogeneration facilities and district heating facilities that have been approved by the Executive Officer for a limited exemption of emissions from the production of qualified thermal output pursuant to section 95852(j)~~,~~ and that meet or exceed the annual threshold in section 95812(c) will have no compliance

obligation and are not covered entities through the year before the first year for which natural gas suppliers are required to consign 100 percent of allocated allowances to auction~~during the first, second, and third compliance periods~~. The compliance obligation for these exempt facilities will be held by the upstream natural gas supplier. Facilities that are not approved by the Executive Officer for a limited exemption of emissions will have a compliance obligation.

(d) Operators of eligible Waste-to-Energy Facilities, pursuant to section 95852(k), that meet or exceed the annual threshold in section 95812(d), will have a compliance obligation beginning in 201~~6~~8.

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.

***

(2) Beginning in 2015, combustion emissions resulting from burning RBOB, distillate fuel oils, or ~~natural gas liquids~~liquefied petroleum gas are not included when calculating an operator's compliance obligation.

(b) First Deliverers of Electricity. A first deliverer of electricity covered under sections 95811(b) and 95812(c)(2) has a compliance obligation for every metric ton of CO_2e emissions calculated pursuant to section 95852(b)(1) for which a positive or qualified positive emissions data verification statement is issued pursuant to MRR, or for which there are assigned emissions, when such emissions are from a source in California or in a jurisdiction where a GHG emissions trading system has not been approved for linkage by the Board pursuant to subarticle 12.

(1) Calculation of emissions for compliance obligation.

***

(B) For first deliverers that are electricity importers, emissions with a compliance obligation are calculated using the following equation:

$$\cancel{CO_2e_{covered} = CO_2e_{unspecified} + \left(CO_2e_{specified} - CO_2e_{specified-not\ covered}\right) - CO_2e_{RPS_adjustment} - CO_2e_{QE_adjustment} - CO_2e_{linked}}$$

$$\underline{CO_2e_{covered} = CO_2e_{unspecified} + \left(CO_2e_{specified} - CO_2e_{specified-not\ covered}\right) + CO_2e_{EIM_adjustment} - CO_2e_{RPS_adjustment} - CO_2e_{linked}}$$

Where:

$CO_2e_{covered}$ ~~covered~~ = Annual metric tons of CO_2e with a compliance obligation.

$CO_2e_{unspecified}$ = Annual metric tons of CO_2e from unspecified imported electricity calculated pursuant to MRR 95111(b)(1).

$CO_2e_{specified}$ = Annual metric tons of CO_2e from imported electricity from specified sources that meet the requirements of MRR section 95111(b)(1).

$CO_2e_{specified\text{-}not\ covered}$ = Annual metric tons of CO_2e without a compliance obligation pursuant to section 95852.2. from specified sources that meet the requirements in MRR section 95111(b)(1).

$\underline{CO_2e_{EIM_adjustment} = EIM_{total\text{-}remainder\text{-}imports\text{-}CO2} \times EIM_Purchaser_{MWh\text{-}purchases} / EIM_{total\text{-}imports\text{-}MWh}}$

<u>$EIM_{total\text{-}remainder\text{-}imports\text{-}CO2}$ = Annual metric tons of CO_2e from electricity that is imported into California through CAISO's EIM but not otherwise accounted for by emissions reported by the EIM participating resource scheduling coordinators. These emissions are calculated pursuant to the requirements in MRR section 95111(h)(1)(A).</u>

$EIM_Purchaser_{MWh\text{-}purchases}$ = Annual MWh of electricity purchased by an EIM Purchaser.

$EIM_{total\text{-}imports\text{-}MWh}$ = Annual MWh of electricity imported into California through CAISO's EIM as provided in the EIM transfer data.

$CO_2e_{RPS_adjustment}$ = Annual metric tons of CO_2e calculated pursuant to MRR that meets the requirements of section 95852(b)(4).

~~$CO_2e_{QE_adjustment}$ = Annual metric tons of CO_2e from qualified exports pursuant to MRR section 95111 that meet the requirements of section 95852(b)(5).~~

CO_2e_{linked} = Annual metric tons of CO_2e from electricity with a first point of receipt located in a jurisdiction where a GHG emissions trading system has been approved for linkage by the Board pursuant to subarticle 12.

***

(2) Resource shuffling is prohibited and is a violation of this article.

(A) The following substitutions of electricity deliveries from a lower emission resource for electricity deliveries from a higher emission resource shall not constitute resource shuffling:

***

2. Electricity deliveries made for the purpose of compliance with state or federal laws and regulations, including the Emission Performance Standard (EPS) rules established by CEC and the CPUC pursuant to ~~p~~Public ~~u~~Utilities ~~c~~Code section 8340 et. seq.
3. Electricity deliveries made for the purpose of compliance with requirements related to maintaining reliable grid operations, such as North American Electric Reliability Corporation (NERC) Reliability Standards~~,~~ and Reliability Coordinator directives,

including the provision of electricity between balancing authorities or load-serving entities when required to alleviate emergency grid conditions.

***

10. Short-term transactions and contracts for delivery of electricity with terms of no more than 12 months, or resulting from an economic bid or self-schedule that clears the CAISO day-ahead or real-time market (except EIM), for either specified or unspecified power, based on economic decisions including implicit and explicit GHG costs and congestion costs, unless such activity is linked to the selling off of power from, or assigning of a contract for, electricity subject to the EPS rules from a power plant that does not meet the EPS with which a California Electricity Distribution Utility has a contract, or in which a California Electricity Distribution Utility has an ownership share, that is not covered under paragraphs 11., 12., or 13. below. Electricity imported through the CAISO EIM market is not exempted from resource shuffling provisions.

***

(B) Prohibited substitutions of electricity deliveries from a higher emission resource with electricity deliveries from a lower emission resource include:

***

2. Assigning a long-term contract for high emission electricity specified in section 95852(b)(2)(B)1. ~~directly above~~ to a third party~~,~~ for the purpose of reducing a compliance obligation.

(3) The following criteria must be met for electricity importers to claim a compliance obligation for delivered electricity based on a specified source emission factor or asset controlling supplier emission factor.

***

(B) The electricity importer must be the facility operator or have right of ownership or a written power contract, as defined in MRR section

95102(a), to the amount of electricity claimed and generated by the facility or unit claimed; and

(C) The electricity must be directly delivered, as defined in MRR section 95102(a), to the California grid~~; and~~.

~~(D) If RECs were created for the electricity generated and reported pursuant to MRR, then the REC serial numbers must be reported and verified pursuant to MRR.~~

(4) RPS adjustment. Electricity procured from an eligible renewable energy resource reported pursuant to MRR must meet the following conditions to be included in the calculation of the RPS adjustment:

***

(C) The quantity of emissions included in the RPS adjustment is calculated as the product of the default emission factor for unspecified sources, pursuant to MRR, and the reported electricity generated (MWh) that meets the requirements of ~~this~~ section~~,~~ 95852(b)(4).

***

(E) No RPS adjustment may be claimed for electricity or RECs generated after December 31, 2020.

(~~E~~F) No RPS adjustment may be claimed for electricity generated by an eligible renewable energy resource in a jurisdiction where a GHG emissions trading system has been approved for linkage by the Board pursuant to subarticle 12.

(~~F~~G) Only RECs representing electricity generated after 12/31/2012 are eligible to be used towards the RPS adjustment.

~~(5) QE adjustment. An adjustment to the compliance obligation pursuant to the calculation in 95852(b)(1) may be made for exported and imported electricity during the same hour by the same PSE. Emissions included in the QE adjustment for qualified exports claimed by a first deliverer must meet the following requirements:~~

~~(A) During any hour in which an electricity importer claims qualified exports and corresponding imports, the maximum amount of QE adjustment for the hour shall not exceed the product of:~~

~~1. The lower of either the quantity of exports or imports (MWh) for the hour; multiplied by~~

~~2. The lowest emission factor of any portion of the qualified exports or corresponding imports for the hour.~~

~~(B) Emissions and MWhs included in the QE adjustment must be reported and verified or assigned pursuant to MRR, and must be documented by hourly import and export data pursuant to MRR.~~

(c) Suppliers of Natural Gas. A supplier of natural gas covered under sections 95811(c) and 95812(d) has a compliance obligation for every metric ton CO_2e of GHG emissions that would result from full combustion or oxidation of all fuel delivered to end users in California contained in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been assigned, less the fuel that is delivered to covered entities, as follows:

***

(2) ARB shall calculate the metric tons CO_2e of GHG emissions for natural gas delivered to covered entities which are customers of the supplier. The emissions will be calculated using the reconciled reported deliveries (in MMBtu) contained in natural gas supplier emissions data reports that received a positive or qualified positive emissions data verification statement. Natural gas received data (in MMBtu) contained in covered facility emissions data reports that received positive or qualified positive emissions data verification statements will be used to ~~cross check~~reconcile delivery data reported by natural gas suppliers, and will serve as a second source of data in instances of missing supplier data. In the event that a natural gas supplier receives an adverse verification statement, ARB will use the provisions described in section 95131(c)(5) of the MRR to calculate the supplier's assigned emission level;

***

(e) Suppliers of Liquefied Petroleum Gas:

***

(2) An importer ~~consignee, as defined under MRR,~~ of liquefied petroleum gas covered under section 95811(e) has a compliance obligation for every metric ton CO_2e of GHG emissions included in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been assigned that would result from full combustion or oxidation of all fuel imported into California.

***

(g) Carbon Dioxide Suppliers. An entity that supplies carbon dioxide, "Carbon Dioxide Supplier" or "CO_2 Supplier", covered under sections 95811(h) and 95812(c)(3) has an aggregated compliance obligation based on the sum of MT CO_2 included in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been assigned minus exported CO_2 that is not geologically sequestered, and 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. The Board-approved quantification methodology must be incorporated into the Cap-and-Trade Regulation before it can be used to reduce a CO_2 supplier's compliance obligation. Emissions of CO_2 already covered with a compliance obligation upstream are not included.

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(j) Limited Exemption of Emissions from the Production of Qualified Thermal Output ~~During the First, Second, and Third Compliance Periods~~. From 2013 through the year before which natural gas suppliers are required to consign 100% of allocated allowances to auction pursuant to Table 9-5 or 9-6~~During the first, second, and third compliance periods,~~ emissions from the production of qualified thermal output from a district heating facility or a facility with a cogeneration unit that meets the requirements of this section and has been

approved by the Executive Officer for an emissions exemption shall not have a compliance obligation and shall not count toward the inclusion threshold of section 95812(c)(1). A facility that qualifies for this limited exemption shall not be a covered entity ~~during the first, second, and third compliance periods~~ until the year in which natural gas suppliers are required to consign 100% of allocated allowances to auction pursuant to Table 9-5 or 9-6.

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(k) Limited Exemption of Emissions for Waste-to-Energy Facilities. Emissions reported and verified in the first and second compliance periods ~~and in data year 2015~~ for the direct combustion of municipal solid waste in a waste-to-energy facility that had started operations before 2009 and that meets the requirements of this section do not have a compliance obligation and shall not count toward the inclusion threshold of section 95812(d)(3). The Executive Officer will place the number of true-up allowances equal to the facility's reported, verified, and covered emissions from municipal solid waste for the 2016 and 2017 data years into their compliance account. These allowances will be used to meet the facility's 2016 and 2017 compliance obligations. The 2018 vintage true-up allowances will be deposited by October 24, 2017 for the 2016 data year's reported and verified emissions. The 2019 vintage true-up allowances will be deposited by October 24, 2018 for the 2017 year's reported and verified emissions. The Executive Officer will retire the allowances placed into the account according to the surrender dates in section 95856. The exempted waste-to-energy facility must meet the following criteria:

(1) Operators of ~~W~~waste-to-~~E~~energy ~~F~~facilities must register in the tracking system pursuant to section 95830;

***

~~(5) The Executive Officer will place the number of true-up allowances equal to the facility's reported, verified, and covered emissions from municipal solid waste for the 2013, 2014, and 2015 data years into their compliance account. These allowances will be used to meet the facility's 2013, 2014, and 2015 compliance obligations. The 2015 vintage true-up allowances will be~~

~~deposited by October 24, 2014 for the 2013data year's reported and verified emissions. The 2016vintage true-up allowances will be deposited by October 24, 2015 for the 2014 year's reported and verified emissions. The 2017 vintage true-up allowances will be deposited by October 24, 2016 for the 2015 data year's reported and verified emissions. The Executive Officer will retire the allowances placed into the account according to the surrender dates in section 95856.~~

(l) Suppliers of Liquefied Natural Gas and Compressed Natural Gas. A supplier of liquefied natural gas and/or compressed natural gas covered under sections 95811(g) or 95812(d) has a compliance obligation for every metric ton CO_2e of GHG emissions included in an emissions data report that has received a positive or qualified positive emissions data verification statement or for which emissions have been assigned that would result from full combustion or oxidation of the quantities ~~on~~of liquefied natural gas or compressed natural gas imported into California~~, except for~~ and/or produced in California from gas received from an interstate pipeline, excluding products for which a final destination outside California can be demonstrated, less the emissions from liquefied natural gas delivered to other covered entities as determined by ARB based on end-user delivery information reported by the supplier.

(1) Limited Exemption for Emissions from LNG Suppliers. Emissions reported and verified in the second compliance period for LNG by suppliers that meet the requirements of this section do not have a compliance obligation. The Executive Officer will allocate the total number of vintage 2018 true-up allowances equal to the supplier's reported, verified, and covered emissions from supplying LNG for the 2015 and 2016 data years by October 24, 2017. The vintage 2018 allowances will be allocated by first placing an amount of allowances up to the number of allowances in the LNG supplier's compliance account on the allocation date, plus allowances equal to the amount of allowances retired for the suppliers' 2015 compliance obligation, into the LNG supplier's annual holding account, and then placing any remaining allowances from the total vintage 2018 true-up allocation into the LNG supplier's

compliance account. The Executive Officer will place the number of vintage 2019 true-up allowances equal to the facility's reported, verified, and covered emissions from supplying LNG for the 2017 data year into the supplier's compliance account by October 24, 2018. These true-up allowances will be used to meet the supplier's 2015, 2016, and 2017 compliance obligations for these covered emissions. The Executive Officer will retire the allowances placed into the account according to the surrender dates in section 95856. To receive these true-up allowances, the exempted LNG supplier must meet the following criteria:

(A) Register in the tracking system pursuant to section 95830;

(B) Report and verify emissions pursuant to MRR for each year; and

(C) During the second compliance period, be the California consignee of imported LNG and also be the operator of an LNG production facility that makes LNG products by liquefying natural gas received from interstate pipelines.

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 combustion of biomass-derived fuels is required to report and verify its emissions pursuant to MRR and has a compliance obligation for every metric ton of CO_2e emissions:

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(b) From combustion of fuels sourced from outside California that do not meet the requirements of section 95852.1.1; or

***

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 and from the combustion of the following fuel types count toward applicable reporting thresholds, as applicable in MRR, but do not count toward a covered entity's compliance obligation set forth in this article unless those emissions are reported as non-exempt biomass-derived CO_2 under MRR. Emissions without a compliance obligation include:

***

(b) The following additional process, vented, and fugitive emissions:

(1) Emissions from geothermal generating units and geothermal facilities, including geothermal geyser steam or fluids;

~~(2) Emissions from natural gas hydrogen fuel cells;~~

(~~3~~2) Vented and fugitive emissions from storage tanks used in petroleum and natural gas production and natural gas transmission;

(~~4~~3) Vented and fugitive emissions reported under sections 95152(e) and (i) of MRR by local distribution companies that report under section 95122 of MRR;

(~~5~~4) Vented and fugitive emissions from natural gas transmission storage tanks used in petroleum and natural gas production and natural gas transmission, and from produced water;

(~~6~~5) Emissions reported by petroleum refineries from asphalt blowing operations, equipment leaks, storage tanks, and loading operations;

(~~7~~6) Emissions from low-~~-~~bleed pneumatic devices prior to January 1, 2019;

(~~8~~7) Emissions from ~~high~~intermittent-~~-~~bleed pneumatic devices ~~reported prior to~~beginning January 1, ~~2015~~2019;

(~~9~~8) Vented emissions from well-site centrifugal and reciprocating compressors with a rated horsepower less than 250hp;

(~~10~~9) Sources for which fugitive emissions are estimated using leak detection and leaker emission factors, as required by section 95153(o) of MRR, and sources for which vented and fugitive emissions are estimated using a population count and emissions factors, as required by section 95153(p) of MRR;

(~~11~~10) Sources for which emissions originate from offshore petroleum and natural gas production facilities, as provided in section 95153(q) of MRR;

(~~12~~11) Carbon dioxide that is exported for purposes other than geologic sequestration or enhanced oil recovery; and

(~~13~~12) Carbon dioxide used in the carbonation process during sugar production in facilities with NAICS code 311313.

(13) Carbon dioxide from fermentation that occurs during the production of food and beverages.

***

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~~Full Compliance Period Compliance Obligation.

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

(b) A covered entity that initially exceeds the threshold in section 95812 in the first year of a compliance period is a covered entity for the entire compliance period. The covered entity's ~~triennial~~full compliance period compliance obligation in this situation is calculated as the total of the emissions that received a positive or qualified positive emissions data verification statement, or were assigned emissions pursuant to section 95131 of MRR from all data years of the compliance period.

(c) A covered entity that initially exceeds the threshold in section 95812 in the second year of ~~the second or subsequent~~a compliance period is a covered entity

for the second and ~~third~~any remaining years of this compliance period. The covered entity's ~~triennial~~full compliance period compliance obligation in this situation is calculated as the total of the emissions that received a positive or qualified positive emissions data verification statement, or were assigned emissions pursuant to section 95131 of MRR for the second and ~~third~~and remaining 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~~final year of a later compliance period has a compliance obligation for its emissions that received a positive or qualified positive emissions data verification statement, or were assigned emissions pursuant to section 95131 of MRR for that year, but the entity's ~~triennial~~full compliance period compliance obligation for the current compliance period is not due the following year. Instead the entity's reported and verified or assigned emissions for this year will be added to the entity's ~~triennial~~full compliance period obligation for the subsequent compliance period.

~~(e) For a covered entity that meets all the criteria set forth in 95853(e)(1) through 95853(e)(3), the Executive Officer shall calculate the amount of California GHG Allowances directly allocated under an energy-based methodology annually using the following formula. All subsequent allocation shall be calculated pursuant to 95891.~~

$$\cancel{TA_{2015} = A_{EB,2015} + TrueUp_{2014} + TrueUp_{2013}}$$

~~Where:~~

~~"TA_{2015}" is the total amount of California GHG allowances directly allocated to the operator of an industrial facility from budget year 2015;~~

~~"$A_{EB,2015}$" is the amount of California GHG allowances calculated under the Energy-Based Allocation Methodology from budget year 2015 pursuant to 95891(c); and~~

~~"$TrueUp_t$" is the amount of true-up allowances allocated to account for allocation not properly accounted for in prior allocations. This value of allowances from budget year 2015 shall be allowed to be used for compliance for budget year 2013 and subsequent years pursuant to 95856(h)(1)(D) and 95856(h)(2)(D). This value is calculated using the following formula:~~

$$\cancel{TrueUp_t = A_{EB,2015} * \frac{c_{a,t}}{c_{a,2015}} \frac{AF_{a,t}}{AF_{a,2015}}}$$

~~Where:~~

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

~~"$c_{a,t}$" is the adjustment factor for budget year "t" assigned to each activity "a" as specified in Table 8-1.~~

~~(1) The facility emissions exceeded the program inclusion threshold prior to 2012 pursuant to pursuant to 95812(c)(1);~~

~~(2) The facility conducted an activity that was not listed in Table 8-1 prior to 2014; and~~

~~(3) The facility is eligible to receive an allowance allocation under the energy-based allocation methodology pursuant to 95891(c) for budget year 2015.~~

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

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§ 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~~full compliance period compliance obligations calculated pursuant to this subarticle beginning with the

emissions data report for 2013 emissions and each subsequent year in which the covered entity has a compliance obligation.

(b) Compliance Instruments Valid for Surrender.

(1) A compliance instrument listed in subarticle 4 may be used to satisfy a compliance obligation.

(2) To fulfill a compliance obligation, a compliance instrument issued pursuant to sections 95820(a) and 95821(a) must be issued from an allowance budget year within or before the year for which an annual compliance obligation is calculated or the last year of a compliance period for which a ~~triennial~~ full compliance period compliance obligation is calculated, unless:

(A) The allowance was purchased from a California Allowance Price Containment Reserve sale, is any other California-issued non-vintage compliance instrument, or is an Allowance Price Containment Reserve Allowance or other non-vintage allowance issued by a program approved by ARB pursuant to section 95941 as specified in section 95821(a); ~~from an Allowance Price Containment Reserve Sale pursuant to section 95913 or compliance instruments pursuant to section 95821(a);~~

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

(C) The allowance is eligible for compliance use pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D).

***

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

***

(3) In years 2015, 2018, and 2021 there is no annual compliance obligation for the preceding compliance period, only a ~~triennial~~ full compliance period compliance obligation.

***

(e) Determination of ~~Triennial~~ Full Compliance Period Compliance Obligation.

(1) When a positive or qualified positive emissions data verification statement or assigned emissions for any year is received by ARB, then those emissions for the source categories in section 95852 equal the ~~triennial~~ full compliance period compliance obligation pursuant to section 95853.

***

(f) Surrender of ~~Triennial~~ Full Compliance Period Compliance Obligation.

(1) The covered entity must transfer sufficient valid compliance instruments to its compliance account to fulfill its ~~triennial~~ full compliance period compliance obligation by November 1, 5 p.m. Pacific Standard Time (or Pacific Daylight Time, when in effect), of the calendar year following the final year of the compliance period. Transfers to compliance accounts may be restricted during the time the tracking system is processing the surrender of the ~~triennial~~ full compliance period compliance obligation.

(2) The total number of compliance instruments submitted to fulfill the ~~triennial~~ full compliance period compliance obligation is subject to the quantitative use limit pursuant to section 95854.

(3) The surrender of compliance instruments must equal the ~~triennial~~ full compliance period compliance obligation calculated pursuant to section 95853 less compliance instruments surrendered to fulfill the annual compliance obligation for the years in the compliance period.

(g) In determining whether the covered entity has fulfilled its compliance obligations, the Executive Officer shall:

(1) In the case of annual and ~~triennial~~ full compliance period compliance obligations, determine the status of compliance with the annual or ~~triennial~~ full compliance period compliance obligation by evaluating the number and types of compliance instruments in the Compliance Account; and

(A) Retire the compliance instruments surrendered; and

(B) Inform programs to which California is linked or recognizes, pursuant to subarticles 12 and 14, of the retirements, including the serial numbers of the compliance instruments retired.

(h) Annual and ~~Triennial~~ Full Compliance Period Compliance Instrument Requirements.

(1) When a covered entity or opt-in covered entity surrenders compliance instruments to meet its annual compliance obligation pursuant to section 95856(d), the Executive Officer will retire them from the Compliance Account in the following order:

(A) Offset credits specified in section 95820(b) and sections 95821(b) through (d), up to eight percent of the emissions with a compliance obligation pursuant to section 9585~~5~~4;

***

(D) The current calendar year's vintage allowances and allowances allocated just before the annual surrender deadline up to the ~~T~~true-up allowance amount as determined in sections 95891(b), 95891(c)(~~3~~2)(B), ~~95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(e)(1),~~ or 95894(c) ~~or 95894(d)~~ if an entity was eligible to receive true up allowances pursuant to sections 95891(b), 95891(c)(~~3~~2)(B), ~~95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(e)(1),~~ or 95894(c) ~~or 95894(d)~~.

(2) When a covered entity or opt-in covered entity surrenders compliance instruments to meet its ~~triennial~~ full compliance period compliance obligation pursuant to section 95856(f), the Executive Officer will retire them from the Compliance Account in the following order:

***

(D) The current calendar year's vintage allowances and allowances allocated just before the ~~triennial~~ full compliance period surrender deadline up to the true-up allowance amount as determined in section 95891(b), 95891(c)(~~3~~2)(B), ~~95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(e)(1),~~ or 95894(c) ~~or 95894(d)~~ if an entity was eligible to receive true up allowances pursuant to section 95891(b), 95891(c)(~~3~~2)(B), ~~95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(e)(1),~~ or 95894(c) ~~or 95894(d)~~.

(3) An entity that is not eligible to receive true up allowances pursuant to section 95891(b), 95891(c)(~~3~~2)(B), ~~95891(d)(1)(B), 95891(d)(2)(B), 95891(d)(2)(C), 95891(ed)(1),~~ or 95894(c)~~ or 95894(d)~~, cannot use the current calendar year's vintage allowances or allowances allocated just before the current surrender deadline to meet the timely surrender of compliance instrument requirements in section 95856.

***

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 surrendering its annual or ~~triennial~~ full compliance period compliance obligation pursuant to section 95856 is subject to the compliance obligation for untimely surrender as described in this section; and

***

(b) Calculation of the Untimely Surrender Obligation. The untimely surrender obligation is the number of compliance instruments that an entity must surrender if it does not meet its original annual or full compliance period compliance obligation. The untimely surrender obligation replaces any unfulfilled portion of an entity's annual or full compliance period compliance obligation.

***

(5) The sum of the offset credits submitted by the entity in a timely manner fulfill its full compliance period compliance obligation plus any offset credits submitted as part of the untimely surrender obligation must be less than or equal to the number of offsets that the entity is allowed to submit when the quantitative usage limit on offset credits is applied to the entity's full compliance period obligation~~The quantitative usage limit provided in section 95854 will apply to the compliance instruments listed in section 95857(b)(4)~~

~~for the compliance period for which the untimely surrender obligation applies~~; and

***

(c) If an entity with an untimely surrender obligation fails to satisfy this obligation pursuant to section 95857(b)(6) then:

***

(3) There will be no additional untimely surrender obligation amount assessed beyond the new untimely surrender obligation determined pursuant to section 95857(c)(2). ~~The calculation of the untimely surrender obligation shall only apply once for each untimely surrender of compliance instruments per annual or triennial 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.

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

If, after an entity has surrendered its compliance instruments to fulfill a compliance obligation ~~for a compliance period~~ pursuant to sections 95856 or 95857, the Executive Officer determines, through an audit or other information, that the entity under-reported its emissions under MRR for any emissions sources that form the basis for the entity's ~~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 sections 95855 or 95856 and the emissions determined by the Executive Officer to be under-reported for the sum of those emissions is less than five percent of the emissions number used to calculate the compliance obligation and subsequently used to calculate the number of compliance instruments surrendered pursuant to sections 95855 or 95856, then the entity is not required to take any further action.

(b) If the difference between the emissions used to calculate the compliance obligation and subsequently calculate the number of compliance instruments surrendered pursuant to sections 95855 or 95856 and the emissions determined by the Executive Officer to be under-reported for the sum of those emissions is more than five percent of the emissions number used to calculate the compliance obligation and subsequently used to calculate the number of compliance instruments surrendered pursuant to sections 95855 or 95856, then the entity must surrender compliance instruments in the following amount:

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

Where:

"Cla" is the number of additional compliance instruments that must be surrendered to ARB to cover under-reported emissions;

"CO" is the emissions number used to determine the compliance obligation surrendered pursuant to sections 95855 or 95856 ~~for any 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 must ~~will have six months from the time of notification by the Executive Officer to~~ surrender additional compliance instruments as determined pursuant to this section for under-reporting emissions under MRR at the next compliance event scheduled pursuant to section 95856. ~~for the previous compliance period as determined pursuant to this section.~~ The provisions of sections 95857 and 96014 shall not apply until after the date of that compliance event. ~~during these six months.~~ The entity may use any compliance instruments acceptable for that compliance event ~~from subsequent compliance periods~~ to meet these requirements. ~~The entity may only use CA GHG allowances or allowances~~

~~issued by a GHG ETS approved pursuant to subarticle 12 to meet the requirements of this section.~~

(d) Any determination that an entity under-reported its emissions ~~for a previous compliance period~~ shall be made by the Executive Officer no later than eight years from the applicable verification deadline for the emissions data report which contained the under-reporting of emissions.

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

§ 95859. Federal Clean Power Plan Requirements.

(a) The federal Clean Power Plan (CPP) means Subpart UUUU of 40 CFR Part 60 (40 CFR §§60.5700 to 60.5880) published in the Federal Register on October 23, 2015. The provisions of this section apply only if U.S. EPA has approved each provision as part of California's plan for compliance with the Clean Power Plan, as memorialized by publication in the Federal Register and Code of Federal Regulations.

(b) General Requirements for Electricity Generating Units Subject to CPP (affected EGUs). Beginning January 1, 2021, and thereafter, all entities that own or operate at least one CPP EGU located in California must:

(1) Be registered in the Cap-and-Trade Program pursuant to section 95830 regardless of annual emissions level and remain registered for the duration of CPP regardless of cessation, annual emissions level, or any other factor;

(2) Report and verify emissions pursuant to MRR sections 95160 to 95163; and

(3) Be in compliance with section 95856.

(c) Deadline to Notify U.S. EPA of CPP Backstop Activation. By July 1 of the year after a compliance period ends, the Executive Officer shall compare the applicable aggregate reported emissions and assigned emissions for all affected EGUs for the compliance period to the applicable CPP backstop trigger established in Appendix D. If the applicable aggregate reported emissions and assigned emissions for all affected EGUs for the compliance period is greater than the applicable CPP backstop trigger established in Appendix D, then the

Executive Officer shall inform U.S.EPA that the CPP backstop is activated pursuant to 40 CFR § 60.5870(b).

(d) CPP Backstop Activation. By October 24 of the year after a compliance period ends, the Executive Officer shall compare the aggregate reported and verified emissions and assigned emissions for all affected EGUs for the compliance period to the aggregate CPP backstop trigger established in Appendix D. If the aggregate reported and verified emissions and assigned emissions for all affected EGUs for the compliance period is greater than the CPP backstop trigger established in Appendix D, then the CPP backstop is activated; otherwise the CPP backstop is not activated. The CPP backstop will apply to the compliance period *n*+1, the backstop compliance period, which immediately follows a triggering compliance period *n,* the triggering compliance period, in which the aggregate affected EGU emissions exceeded the CPP backstop trigger.

(e) CPP Backstop. If the CPP backstop is activated pursuant to section 95859(d), then sections 95859(e)(1)-(8) shall apply.

(1) Creation of CPP Backstop Account. The accounts administrator will create and maintain a holding account that is under the control of the Executive Officer and known as the CPP Backstop (CPPB) Account:

(A) Into which the Executive Officer will transfer CPP allowances pursuant to section 95859(e)(4); and

(B) From which the Executive Officer may transfer CPP allowances pursuant to sections 95859(e)(5) and (e)(8).

(2) Creation of CPP Allowances. The Executive Officer shall create CPP allowances pursuant to section 95859(e)(4) and place these allowances into the CPPB Account. The Executive Officer shall assign each CPP allowance a unique serial number that indicates the compliance period allowance budget from which the allowance originates. CPP allowances are available only to entities that own or operate at least one affected EGU located in California.

(3) CPP Backstop Compliance Obligation. Entities with at least one CPP EGU incur a CPP backstop compliance obligation for the compliance period *n*+1,

the backstop compliance period, that immediately follows the compliance period *n*, the triggering compliance period, in which the aggregate affected EGU sector emissions exceeded the CPP backstop trigger. The CPP backstop compliance obligation in compliance period *n*+1 for an affected EGU equals the affected EGU's emissions for compliance period *n*+1 that are reported and verified pursuant to MRR sections 95160 to 95163 or the emissions for compliance period *n*+1 that are assigned by the Executive Officer.

(4) Quantity of CPP Allowances Created in the CPPB Account. By October 24 of the year following a triggering compliance period, the Executive Officer shall create a number of CPP allowances calculated by the following equation and place them in the CPPB Account:

$$CPPB_{created,n+1} = T_{CPP,n+1} - (E_{sector,n} - T_{CPP,n})$$

Where:

"$CPPB_{created,n+1}$" is the number of CPP allowances with compliance period vintage *n*+1 created and transferred to the CPPB Account;

"$E_{sector,n}$" is the aggregate reported and verified emissions and assigned emissions for all affected EGUs, rounded up to the nearest whole metric ton value, for the triggering compliance period *n* in which the emissions exceeded the CPP backstop trigger;

"$T_{CPP,n}$" is the CPP glidepath target for the triggering compliance period *n* that is established in Appendix D; and

"$T_{CPP,n+1}$" is the CPP glidepath target for the backstop compliance period *n*+1 that is established in Appendix D.

(5) Allocation of CPP Allowances. By October 24 of the year following a triggering compliance period, the Executive Officer shall allocate the number

of CPP allowances from the CPPB Account to the holding account of each facility with an affected EGU that is calculated by the following equation:

$$A_{facility} = \frac{\sum_i E_{EGU,n,i}}{E_{sector,n}} \times CPPB_{created,n+1}$$

Where:

"$A_{facility}$" is the number of CPP allowances, rounded up to the nearest whole number, transferred from the CPPB Account to the holding account of a facility that owns or operates at least one CPP EGU located in California;

"$E_{EGU,n,i}$" is the reported and verified emissions or the assigned emissions in the triggering compliance period *n* for affected EGU *i* at the facility;

"$E_{sector,n}$" is the aggregate reported and verified emissions and assigned emissions for all CPP EGUs for the triggering compliance period *n* in which the emissions exceeded the CPP glidepath target; and

"$CPPB_{created,n+1}$" is the number of CPP allowances with compliance period vintage *n*+1 created and transferred to the CPPB Account pursuant to section 95859(e)(4).

(6) Trading of CPP Allowances. CPP allowances may only be traded among entities that own or operate affected EGUs located in California and that are registered in the Program. Trading of CPP allowances must be conducted pursuant to section 95921.

(7) Timely Surrender of CPP Allowances. Entities with at least one affected EGU must surrender one CPP allowance for each metric ton of emissions for the CPP backstop compliance obligation in section 95859(e)(3). Each entity must transfer from its holding account to its compliance account a sufficient number of CPP allowances to meet the CPP backstop compliance obligation established pursuant to section 95859(e)(3). Each entity must transfer

sufficient CPP allowances to its compliance account to fulfill its CPP backstop compliance obligation by 5 p.m. Pacific Standard Time (or Pacific Daylight Time, when in effect) on November 1 of the calendar year following the final year of the backstop compliance period *n*+1.

(8) Retirement of Remaining CPP Allowances. Any CPP allowances with compliance period vintage *n*+1 remaining in the CPPB Account after the CCP backstop compliance obligation deadline in section 95859(e)(7) shall be transferred to the Retirement Account by the Executive Officer.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 39601, and 39602, Health and Safety Code.
Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code.

§ 95870. Disposition of Vintage 2013-2020 Allowances.

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(d) Electricity Related Allocation.

(1) Electrical Distribution Utility Sector Allocation for Budget Years 2013-2020. Allowances available for allocation to electrical distribution utilities each budget year shall be 97.7 million metric tons multiplied by the cap adjustment factor in Table 9-2 for each budget year 2013-2020. The Executive Officer will allocate to the limited use holding account and allowance allocation holding account pursuant to sections 95892(b)(2)(A) and 95831(a)(6) for each electrical distribution utilit~~ies~~y ~~on September 14, 2012 for vintage 2013 allowances and~~ by October 24~~, or the first business day thereafter,~~ of each calendar year from 2013-2019 for allocations from 2014-2020 annual allowance budgets.

(2) Allocation to Public Wholesale Water Agencies. The Executive Officer will place an annual individual allocation in the ~~compliance~~ annual allocation holding account, pursuant to sections 95895 and 95831(a)(6), of a public wholesale water agency ~~on or before~~by October 24~~, or the first business day thereafter,~~ of each calendar year from 2014-2019 for allocations from 2015-2020 annual allowance budgets.

(e) Allocation to Industrial Covered Entities. Allowances allocated for the purposes of industry assistance shall be transferred to annual allocation holding accounts for industrial sectors listed in Table 8-1. Allowances in the annual allocation holding account are transferred to the Holding Account on January 1 of the vintage year of the allowances.

(1) The Executive Officer will allocate allowances ~~from 2015-2020 annual allowance budgets~~ to each eligible covered entity ~~on or before~~by October 24~~, or the first business day thereafter,~~ of each calendar year 2014-2019 for allocations from 2015-2020 annual allowance budgets.

(2) Allocation to eligible covered entities shall be conducted using the assistance factors specified for each listed industrial activity found in Table 8-1 and Table 8-3 and the methodology set forth in section 95891.

~~(A) First Compliance Period Refining Sector Allocation. Allowances available for allocation to petroleum refineries from the 2013-2014 allowance budgets shall be calculated using the following equation. Individual petroleum refiners will receive a portion of this sector allocation under the method calculated pursuant to section 95891(d).~~

$$\cancel{SA_t = O_{t-2} * B_R * AF_{R,t} * c_t}$$

~~Where:~~

~~"SA_t" is the allocation to the refining sector from budget year "t";~~

~~"O_{t-2}" is the output of primary refinery products, in barrels, from the refining sector in year "t-2";~~

~~"B_R" is the benchmark for primary products produced by the refining sector, equal to 0.0462 metric tons of allowances per barrel of primary refinery product;~~

~~"$AF_{R,t}$" is the assistance factor for budget year "t" assigned to petroleum refining as specified in Table 8-1; and~~

~~"c_t" is the cap adjustment factor for budget year "t" assigned to petroleum refining to account for cap decline as specified in Table 9-2 in section 95891.~~

~~(B) Second and Third Compliance Period Refining Sector Allocation. For budget years 2015-2020, allowances available for allocation to individual petroleum refineries shall be calculated using the product output-based allocation calculation methodology in section 95891(b).~~

(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 (d) and sections 95870 (f) and (h). If the amount calculated under the methodology set forth in section 95891 exceeds the amount of allowances available, the number of allowances available will be prorated equally across all eligible industrial covered entities. The proration will be calculated using the share of allowances available after accounting for all allocations made pursuant to sections 95870(a) through (d) and sections 95870 (f) and (h) compared to total allowances that would be distributed according to the methodology set forth in section 95891.

(4) Industrial entities that purchase electricity or legacy contract qualified thermal output pursuant to a legacy contract and who receive allocation under this section shall have their allocation reduced as specified in section 95891(~~f~~e).

~~(5) If a facility approved for a limited exemption of emissions from the production of qualified thermal output pursuant to section 95852(j) did not receive any industrial allocation for budget year 2013, the Executive Officer shall place in its compliance account, by October 24, 2014, the amount of true-up allowances equal to the facility's reported, verified, and covered emissions (pursuant to MRR) for the 2013 data year, less the amount of allowances in its compliance account as of October 23, 2014. The Executive Officer will~~

~~place in the facility's holding account the amount of allowances equivalent to the allowances in its compliance account as of October 23, 2014. If a facility approved for a limited exemption of emissions from the production of qualified thermal output pursuant to section 95852(j) did not receive any industrial allocation for budget year 2014, the Executive Officer shall place in its compliance account, by October 24, 2015, the amount of true-up allowances equal to the facility's reported, verified, and covered emissions for the 2014 data year. The Executive Officer shall retire the amount of allowances equivalent to the facility's reported, verified, and covered emissions for the 2013 and 2014 data years, as applicable, according to the surrender dates in section 95856. A facility that has been approved by the Executive Officer for a limited exemption of emissions from the production of qualified thermal output pursuant to 95852(j) shall not receive any allocation of allowances for the second and third compliance periods unless it ceases to be eligible for the limited exemption and qualifies for an allocation pursuant to sections 95870, 95890, 95891, or 95894.~~

~~(6) If a facility approved for a limited exemption of emissions from the production of qualified thermal output pursuant to section 95852(j) received an industrial allocation for budget year 2013, it must place allowances equal to the amount received in 2013 into its compliance account. If the amount of allowances equal to the facility's reported, verified, and covered emissions (pursuant to MRR) for the 2013 data year exceeds the amount received through industrial allocation for budget year 2013, by October 24, 2014, the Executive Officer will place in the facility's compliance account true-up allowances equal to the difference between the facility's reported, verified, and covered emissions and the amount of industrial allocation received for budget year 2013. If the allowances received for budget year 2013 exceeds the amount of the facility's reported, verified, and covered emissions for the 2013 data year, the facility will have its "budget year 2016 true-up allocation" reduced by the amount that the industrial allocation amount received for budget year 2013 exceeds the reported, verified, and covered emissions for the 2013 data year. If a facility~~

~~approved for a limited exemption of emissions from the production of qualified thermal output pursuant to section 95852(j) received an industrial allocation for budget year 2014, it must place allowances equal to the amount received through industrial allocation for the 2014 budget year into its compliance account. Budget year 2016 true-up allocation: If the amount of allowances equal to the facility's reported, verified, and covered emissions for the 2014 data year exceeds the amount of allowances received for industrial allocation for budget year 2014, by October 24, 2015, the Executive Officer will place in the facility's compliance account true-up allowances equal to the difference between the facility's reported, verified, and covered emissions for the 2014 data year and the amount of allowances received through industrial allocation for budget year 2014; this amount will be reduced by the amount that the industrial allocation amount received for budget year 2013 exceeded the reported, verified, and covered emissions for the 2013 data year, if applicable. If the allowances received for budget year 2014 exceeds the amount of the facility's reported, verified, and covered emissions for the 2014 data year, the facility shall return to the Executive Officer the number of allowances equal to the difference between the industrial allocation for budget year 2014 and the facility's reported, verified, and covered emissions for the 2014 data year. The submission of a request to return allowances must occur within five days of settlement of the first auction or reserve sale conducted by ARB following the October 24, 2015 allocation, whichever is later, and for which the registration deadline has not passed at the time of the October 24, 2015 allocation. The returned allowances will be auctioned pursuant to section 95910. The Executive Officer shall retire the amount of allowances equivalent to the facility's reported, verified, and covered emissions for the 2013 and 2014 data years, as applicable, according to the surrender dates in section 95856. A facility that has been approved by the Executive Officer for a limited exemption of emissions from the production of qualified thermal output pursuant to 95852(j) shall not receive any allocation of allowances for the second and third compliance periods unless it ceases to be eligible for the~~

~~limited exemption and qualifies for an allocation pursuant to sections 95870, 95890, 95891, or 95894.~~

(f) Allocation to University Covered Entities and Public Service Facilities. ~~The Executive Officer will place an annual individual allocation from budget year 2015 in the annual allocation holding account of each eligible university covered entity and public service facility for calendar years 2013, 2014, and 2015 by October 24, 2014 or the first business day thereafter.~~ The Executive Officer will place an annual individual allocation in the annual allocation holding account of each eligible university covered entity and public service facility ~~on or before~~by October 24~~, or the first business day thereafter,~~ of each calendar year from 2015-2019 for allocations from 2016-2020 annual allowance budgets. A public service facility providing steam to a publicly-owned educational facility is not eligible for any allocation of allowances provided under other provisions of this regulation. In the event a publicly-owned educational facility that receives qualified thermal output from a public service facility becomes an opt-in covered entity and receives allowances for the emissions from qualified thermal output sold to the university by the public service facility pursuant to section 95891(~~e~~d), the publicly-owned educational facility shall unconditionally transfer to the public service facility allowances relating to the qualified thermal output provided by such public service facility. So long as the publicly-owned educational facility remains an opt-in covered entity and provides such allowances to the public service facility, such public service facility will not be eligible for any disposition of allowances provided under this section.

(g) Allocation to Legacy Contract Generators.

~~(1) Allowances will be allocated to legacy contract generators without an industrial counterparty for budget years 2013 through 2017 for transition assistance. The Executive Officer will transfer allowance allocations into each eligible generator's annual allocation holding account by October 24 for eligible legacy contract emissions pursuant to the methodology set forth in section 95894 each year through 2017.~~

~~(2)~~ Allowances will be allocated to legacy contract generators with an industrial counterparty pursuant to section 95894 for the term of the contract. The Executive Officer will transfer allowance allocations into each eligible generator's annual allocation holding account by October 24 of each calendar year for eligible legacy contract emissions pursuant to the methodology set forth in section 95894.

(h) Natural Gas Supplier Sector Allocation. Allowances available for allocation to natural gas suppliers each budget year shall be calculated as set forth in section 95893. The Executive Officer will transfer allowances into each eligible natural gas supplier's allowance allocation holding account and/or limited use holding account pursuant to sections 95893(b)(1)(B) and 95831(a)(6) ~~allocate to natural gas suppliers on~~by October 24~~, or the first business day thereafter,~~ of each calendar year from 2014 through-2019 for allocations from 2015 through 2020 annual allowance budgets.

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~~(j) Negative Allocation. If the calculation of an entity's annual allowance allocation is negative pursuant to 95891, that negative amount shall be applied to the entity's allowance allocation that is distributed the following calendar year.~~

Table 8-1: ~~Industry~~ Assistance Factors by Industrial Activity for 2013-2020

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	Thermal EOR Crude Oil Extraction	100%	100%	100%
			Non-Thermal Crude Oil Extraction	100%	100%	100%
			Natural Gas Processing >25 MMscf/day	100%	100%	100%
	Natural Gas Liquid Extraction	211112	Natural Gas Liquid Processing	100%	100%	100%
	All Other Metal Ore Mining	212299	Rare Earth Production	100%	100%	100%
	Potash, Soda, and Borate Mineral Mining	212391	Mining and Manufacturing of Soda Ash and Related	100%	100%	100%
	All Other Nonmetallic Mineral Mining	212399	Diatomaceous Earth Mining	100%	100%	100%
			Freshwater Diatomite Filter Aids Manufacturing	100%	100%	100%
	Paper (except Newsprint) Mills	322121	Bathroom Tissue Manufacturing	100%	100%	100%
			Facial Tissue Manufacturing	100%	100%	100%
			Delicate Task Wipers Manufacturing	100%	100%	100%
			Paper Towel 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 Petroleum and Coal Products Manufacturing	324199	Coke Calcining	100%	100%	100%

Leakage Risk Classification	NAICS Sector Definition	NAICS Code	Activity (a)	~~Industry~~ Assistance Factor (AF_a) by Budget Year		
				2013-2014	2015-2017	2018-2020
	All Other Basic Inorganic Chemical Manufacturing	325188	All Other Basic Inorganic Chemical 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%
	Lime Manufacturing	327410	Dolime Manufacturing	100%	100%	100%
	Mineral Wool Manufacturing	327993	Fiber Glass Manufacturing	100%	100%	100%
	Iron and Steel Mills	331111	Steel Production Using an 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%	100%	75%
	Fruit and vegetable canning	311421	Aseptic Tomato Paste Processing	100%	100%	75%
			Aseptic Whole and Diced Tomato Processing	100%	100%	75%
			Non-Aseptic Tomato Paste and Tomato Puree Processing	100%	100%	75%
			Non-Aseptic Whole and Diced Tomato Processing	100%	100%	75%
			Non-Aseptic Tomato Juice Processing	100%	100%	75%

Leakage Risk Classification	NAICS Sector Definition	NAICS Code	Activity (a)	~~Industry~~ Assistance Factor (AF_a) by Budget Year		
				2013-2014	2015-2017	2018-2020
	Poultry Processing	311615	Whole Chicken and Chicken Parts Processing	100%	100%	75%
			Poultry Deli Product Processing	100%	100%	75%
			Protein Meal and Fat Processing	100%	100%	75%
	Dried and Dehydrated Food Manufacturing	311423	Dehydrated Garlic Processing	100%	100%	75%
			Dehydrated Onion Processing	100%	100%	75%
			Dehydrated Chili Pepper Processing	100%	100%	75%
			Dehydrated Spinach Processing	100%	100%	75%
			Dehydrated Parsley Processing	100%	100%	75%
	Dairy Product Manufacturing	31151	Milk, Buttermilk, Skim Milk, and Ultrafiltered Milk Processing	100%	100%	75%
			Cream processing	100%	100%	75%
			Butter processing	100%	100%	75%
			Condensed Milk Processing	100%	100%	75%
			Nonfat Dry Milk and Skimmed Milk Powder (Low Heat) Processing	100%	100%	75%
			Nonfat Dry Milk and Skimmed Milk Powder (Medium Heat and High Heat) Processing	100%	100%	75%
			Buttermilk Powder Processing	100%	100%	75%
			Dairy Product Solids for Animal Feed Processing	100%	100%	75%

Leakage Risk Classification	NAICS Sector Definition	NAICS Code	Activity (a)	~~Industry~~ Assistance Factor (AF_a) by Budget Year		
				2013-2014	2015-2017	2018-2020
			Intermediate Dairy Ingredients Processing	100%	100%	75%
			Cheese Processing	100%	100%	75%
			Lactose Processing	100%	100%	75%
			Whey Protein Concentrate Processing	100%	100%	75%
			Deproteinized Whey Processing	100%	100%	75%
	Roasted Nuts and Peanut Butter Manufacturing	311911	Pistachio Processing	100%	100%	75%
			Almond Processing	100%	100%	75%
	Snack Food Manufacturing	31191	Fried Potato Chips Processing	100%	100%	75%
			Baked Potato Chips Processing	100%	100%	75%
			Corn Chips Processing	100%	100%	75%
			Corn Curls Processing	100%	100%	75%
			Pretzel Processing	100%	100%	75%
	Beet sugar manufacturing	311313	Beet sugar manufacturing	100%	100%	75%
	Cut and Sew Apparel Manufacturing	3152	Cut and Sew Apparel Manufacturing	100%	100%	75%
	Breweries	312120	Brewing	100%	100%	75%
			Lager Beer Manufacturing	100%	100%	75%
	Wineries	312130	Distilled Spirits Production	100%	100%	75%
			Dry Color Concentrate Production	100%	100%	75%
			Grape Juice Concentrate Production	100%	100%	75%
			Grape Seed Extract Production	100%	100%	75%
			Liquid Color Concentrate Production	100%	100%	75%

Leakage Risk Classification	NAICS Sector Definition	NAICS Code	Activity (a)	~~Industry~~ Assistance Factor (AF_a) by Budget Year		
				2013-2014	2015-2017	2018-2020
	Petroleum Refineries	324110	Petroleum Refining	100%	100%	75%
	Asphalt Paving Mixture and Block Manufacturing	324121	Asphalt Paving Mixture and Block Manufacturing	100%	100%	75%
	Industrial Gas Manufacturing	325120	On-Purpose Hydrogen Gas Production	100%	100%	75%
			Liquid Hydrogen Production	100%	100%	75%
	Ethyl Alcohol Manufacturing	325193	Ethyl Alcohol Manufacturing	100%	100%	75%
	Biological Product (Except Diagnostic) Manufacturing	325414	Biological Product (Except Diagnostic) Manufacturing	100%	100%	75%
	Gypsum Product Manufacturing	327420	Plaster Manufacturing	100%	100%	75%
			Stucco Manufacturing	100%	100%	75%
	Rolled Steel Shape Manufacturing	331221	Pickled Steel Sheet Production	100%	100%	75%
			Cold Rolled and Annealed Steel Sheet Production	100%	100%	75%
			Galvanized Steel Sheet Production	100%	100%	75%
			Tin Steel Plate Production	100%	100%	75%
	Secondary Smelting and Alloying of Aluminum	331314	Aluminum and Aluminum Alloy Billet Manufacturing	100%	100%	75%
	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (Except Copper and Aluminum)	331492	Lead Acid Battery Recycling	100%	100%	75%
	Iron Foundries	331511	Iron Foundries	100%	100%	75%
			Ductile Iron Pipe Manufacturing	100%	100%	75%
	Hardware Manufacturing	332510	Hardware Manufacturing	100%	100%	75%
	Turbine and Turbine Generator Set Units Manufacturing	333611	Testing of Turbines and Turbine Generator Sets	100%	100%	75%

Leakage Risk Classification	NAICS Sector Definition	NAICS Code	Activity (a)	~~Industry~~ Assistance Factor (AF_a) by Budget Year		
				2013-2014	2015-2017	2018-2020
Low	Pharmaceutical and Medicine Manufacturing	325412	Pharmaceutical and Medicine Manufacturing	100%	100%	50%
	Nonferrous Forging	332112	Nonferrous Metal Forging	100%	100%	50%
			Seamless Rolled Ring	100%	100%	50%
	Aircraft Manufacturing	336411	Aircraft Manufacturing	100%	100%	50%
	Guided Missile and Space Vehicle Manufacturing	336414	Guided Missile and Space Vehicle Manufacturing	100%	100%	50%
	Support Activities for Air Transportation 4881	4881	Support Activities for Air Transportation	100%	100%	50%
Unknown	Other Food Crops Grown Under Cover	111419	Other Food Crops Grown Under Cover	tbd[#]	tbd[#]	tbd[#]
	Wet Corn Milling	311221	Wet Corn Milling	100%	100%	tbd[#]
	Cyclic Crude, Intermediate, and Gum and Wood	325194	Cyclic Crude, Intermediate, and Gum and Wood	100%	100%	tbd[#]
	Automobile Manufacturing	336111	Automobile Manufacturing	100%	100%	tbd[#]

[#] tbd means that this leakage risk classification and associated assistance factor is yet to be determined. Staff may propose a change to this leakage risk classification and assistance factor as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment 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 and Section 16428.8, Government Code.

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

(a) Allowance Price Containment Reserve. The Executive Officer shall transfer the number of California GHG allowances from budget years 2021 to 2031 to the Allowance Price Containment Reserve as specified in Table 8-2.

(b) Advance Auction. The Executive Officer shall transfer 10 percent of the allowances from budget years 2021 and beyond to the Auction Holding Account.

(1) These allowances will be eligible to be sold pursuant to section 95913(f)(5).

(2) All Advance Auction allowances not sold pursuant to section 95913(f)(5) will be auctioned pursuant to section 95910.

(3) The proceeds from the sale of these allowances will be deposited into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8, and will be available for appropriation by the Legislature for the purposes designated in California Health and Safety Code sections 38500 et seq. and consistent with the requirements of Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the California Health and Safety Code and Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(c) Electricity Related Allocation.

(1) Electrical Distribution Utility Sector Allocation for Budget Year 2021 and Beyond. Allowance amounts allocated to each eligible electrical distribution utility will be determined pursuant to section 95892(a). The Executive Officer will allocate to the limited use holding account and/or allowance allocation holding account pursuant to sections 95892(b)(2)(A) and 95831(a)(6) for each electrical distribution utility by October 24, of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget.

(2) Allocation to Public Wholesale Water Agencies. The Executive Officer will place an annual individual allowance allocation in the allowance allocation holding account, pursuant to sections 95895 and 95831(a)(6), of a public wholesale water agency by October 24 of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget.

(d) Allocation to Industrial Covered Entities. Allowances allocated for the purposes of industry assistance shall be transferred to annual allocation holding accounts for industrial sectors listed in Table 8-3. Allowances in the annual allocation holding account are transferred to the Holding Account on January 1 of the vintage year of the allowances.

(1) The Executive Officer will allocate allowances to each eligible covered and opt-in covered entities by October 24 of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget.

(2) Allocation to eligible covered and opt-in covered entities shall be conducted using the assistance factors specified for each industrial activity in Table 8-3 and the methodology set forth in section 95891.

(3) The total amount of allowances allocated for the purposes of industry assistance shall not exceed the available amount of allowances after accounting for allocations made pursuant to sections 95871(a)-(c) and (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 sections 95871(a)-(c) compared to total allowances that would be distributed according to the methodology set forth in section 95891.

(4) Industrial entities that purchase electricity or legacy contract qualified thermal output pursuant to a legacy contract and who receive allocation under this section shall have their allocation reduced as specified in section 95891(e).

(e) Allocation to University Covered Entities and Public Service Facilities. The Executive Officer will place an annual individual allocation in the annual allocation holding account of each eligible university covered entity and public service facility by October 24 of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget. A public service facility providing steam to a publicly-owned educational facility is not eligible for any allocation of allowances provided under other provisions of this regulation. In the

event a publicly owned educational facility that receives qualified thermal output from a public service facility becomes an opt-in covered entity and receives allowances for the emissions from qualified thermal output sold to the university by the public service facility pursuant to section 95891(d), the publicly owned educational facility shall unconditionally transfer to the public service facility allowances relating to the qualified thermal output provided by such public service facility. So long as the publicly-owned educational facility remains an opt-in covered entity and provides such allowances to the public service facility, such public service facility will not be eligible for any disposition of allowances provided under this section.

(f) Allocation to Legacy Contract Generators. Allowances will be allocated to legacy contract generators with an industrial counterparty pursuant to section 95894 for the term of the contract. The Executive Officer will transfer allowance allocations into each eligible generator's annual allocation holding account by October 24 of each calendar year during the term of the contract for eligible legacy contract emissions pursuant to the methodology set forth in section 95894 beginning in 2020 for allocation from the 2021 annual allowance budget.

(g) Natural Gas Supplier Sector Allocation. Allowances available for allocation to natural gas suppliers each budget year shall be calculated as set forth in section 95893. The Executive Officer will transfer allowances into each eligible natural gas supplier's allowance allocation holding account and/or limited use holding account pursuant to sections 95893(b)(1)(b) and 95831(a)(6) by October 24 of each calendar year beginning in 2020 for allocation from the 2021 annual allowance budget.

(h) Auction Proceeds for AB 32 Statutory Objectives.

(1) Beginning in 2021, 10 percent of all remaining allowances from each vintage not allocated for uses specified in section 95871(a) are eligible to be sold pursuant to section 95913(l).

(2) All remaining allowances not allocated for uses specified in sections 95871(a)-(g) or section 95871(h)(1) will be designated for sale at auction. The proceeds from the sale of these allowances will be deposited into the

Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8, and will be available for appropriation by the Legislature for the purposes designated in California Health and Safety Code sections 38500 et seq. and consistent with the requirements of Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the California Health and Safety Code and Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

Table 8-2: Number of California GHG Allowances Allocated to the APCR for Budget Years 2021 to 2031

Budget year	Number of California GHG Allowances Allocated to the APCR (millions of allowances)
2021	10.5
2022	9.4
2023	8.3
2024	7.2
2025	6.1
2026	4.9
2027	3.8
2028	2.7
2029	1.6
2030	0
2031	0

Table 8-3: Assistance Factors by Industrial Activity for 2020 and Beyond

NAICS Code	NAICS Sector Definition	Activity (a)	Assistance Factor (AF_a)
111419	Other Food Crops Grown Under Cover	Other Food Crops Grown Under Cover	*[Staff may propose assistance factors as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*
211111	Crude Petroleum and Natural Gas Extraction	Thermal EOR Crude Oil Extraction	
		Non-Thermal Crude Oil Extraction	
		Natural Gas Processing (> 25 MMscf/day)	
211112	Natural Gas Liquid Extraction	Natural Gas Liquid Processing	
212299	All Other Metal Ore Mining	Rare Earth Production	
212391	Potash, Soda, and Borate Mineral Mining	Mining and Manufacturing of Soda Ash and Related Products	
212399	All Other Nonmetallic Mineral Mining	Diatomaceous Earth Mining	
		Freshwater Diatomite Filter Aids Manufacturing	
311221	Wet Corn Milling	Wet Corn Milling	
311313	Beet Sugar Manufacturing	Beet Sugar Manufacturing	
311421	Fruit and Vegetable Canning	Aseptic Tomato Paste Processing	
		Aseptic Whole and Diced Tomato Processing	
		Non-Aseptic Tomato Paste and Tomato Puree Processing	
		Non-Aseptic Whole and Diced Tomato Processing	
		Non-Aseptic Tomato Juice Processing	
311423	Dried and Dehydrated Food Manufacturing	Dehydrated Garlic Processing	
		Dehydrated Onion Processing	
		Dehydrated Chili Pepper Processing	
		Dehydrated Spinach Processing	
		Dehydrated Parsley Processing	

NAICS Code	NAICS Sector Definition	Activity (a)	Assistance Factor (AF_a)
31151	Dairy Product Manufacturing	Milk, Buttermilk, Skim Milk, and Ultrafiltered Milk Processing	*[Staff may propose assistance factors as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*
		Cream processing	
		Butter processing	
		Condensed Milk Processing	
		Nonfat Dry Milk and Skimmed Milk Powder (Low Heat) Processing	
		Nonfat Dry Milk and Skimmed Milk Powder (Medium Heat and High Heat) Processing	
		Buttermilk Powder Processing	
		Dairy Product Solids for Animal Feed Processing	
		Intermediate Dairy Ingredients Processing	
		Cheese Processing	
		Lactose Processing	
		Whey Protein Concentrate Processing	
		Deproteinized Whey Processing	
311615	Poultry Processing	Whole Chicken and Chicken Parts Processing	
		Poultry Deli Product Processing	
		Protein Meal and Fat Processing	
311911	Roasted Nuts and Peanut Butter Manufacturing	Pistachio Processing	
		Almond Processing	
31191	Snack Food Manufacturing	Fried Potato Chips Processing	
		Baked Potato Chips Processing	
		Corn Chips Processing	
		Corn Curls Processing	
		Pretzel Processing	

NAICS Code	NAICS Sector Definition	Activity (a)	Assistance Factor (AF_a)
312120	Breweries	Brewing	*[Staff may propose assistance factors as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*
		Lager Beer Manufacturing	
312130	Wineries	Distilled Spirits Production	
		Dry Color Concentrate Production	
		Grape Juice Concentrate Production	
		Grape Seed Extract Production	
		Liquid Color Concentrate Production	
322121	Paper (Except Newsprint) Mills	Bathroom Tissue Manufacturing	
		Facial Tissue Manufacturing	
		Delicate Task Wipers Manufacturing	
		Paper Towel Manufacturing	
322130	Paperboard Mills	Recycled Boxboard Manufacturing	
		Recycled Linerboard (Testliner) Manufacturing	
		Recycled Medium (Fluting) Manufacturing	
324110	Petroleum Refineries	Petroleum Refining	
324121	Asphalt Paving Mixture and Block Manufacturing	Asphalt Paving Mixture and Block Manufacturing	
324199	All Other Petroleum and Coal Products Manufacturing	Coke Calcining	
325120	Industrial Gas Manufacturing	On-Purpose Hydrogen Gas Production	
		Liquid Hydrogen Production	
325188	All Other Basic Inorganic Chemical Manufacturing	All Other Basic Inorganic Chemical Manufacturing	
325193	Ethyl Alcohol Manufacturing	Ethyl Alcohol Manufacturing	
325194	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing	Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing	

NAICS Code	NAICS Sector Definition	Activity (a)	Assistance Factor (AF_a)
325199	All Other Basic Organic Chemical Manufacturing	All Other Basic Organic Chemical Manufacturing	*[Staff may propose assistance factors as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*
325311	Nitrogenous Fertilizer Manufacturing	Nitric Acid Production	
		Calcium Ammonium Nitrate Solution Production	
325412	Pharmaceutical and Medicine Manufacturing	Pharmaceutical and Medicine Manufacturing	
325414	Biological Product (Except Diagnostic) Manufacturing	Biological Product (Except Diagnostic) Manufacturing	
327211	Flat Glass Manufacturing	Flat Glass Manufacturing	
327213	Glass Container Manufacturing	Container Glass Manufacturing	
327310	Cement Manufacturing	Cement Manufacturing	
327410	Lime Manufacturing	Dolime Manufacturing	
327420	Gypsum Product Manufacturing	Plaster Manufacturing	
		Stucco Manufacturing	
327993	Mineral Wool Manufacturing	Fiber Glass Manufacturing	
331111	Iron and Steel Mills	Steel Production Using an Electric Arc Furnace	
331221	Rolled Steel Shape Manufacturing	Hot Rolled Steel Sheet Production	
		Pickled Steel Sheet Production	
		Cold Rolled and Annealed Steel Sheet Production	
		Galvanized Steel Sheet Production	
		Tin Steel Plate Production	
331314	Secondary Smelting and Alloying of Aluminum	Aluminum and Aluminum Alloy Billet Manufacturing	
331492	Secondary Smelting, Refining, and Alloying of Nonferrous Metal (Except Copper and Aluminum)	Lead Acid Battery Recycling	
331511	Iron Foundries	Iron Foundries	
		Ductile Iron Pipe Manufacturing	

NAICS Code	NAICS Sector Definition	Activity (a)	Assistance Factor (AF_a)
332112	Nonferrous Forging	Nonferrous Metal Forging	*[Staff may propose assistance factors as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*
		Seamless Rolled Ring	
332510	Hardware Manufacturing	Hardware Manufacturing	
333611	Turbine and Turbine Generator Set Units Manufacturing	Testing of Turbines and Turbine Generator Sets	
336111	Automobile Manufacturing	Automobile Manufacturing	
336411	Aircraft Manufacturing	Aircraft Manufacturing	
336414	Guided Missile and Space Vehicle Manufacturing	Guided Missile and Space Vehicle Manufacturing	
4881	Support Activities for Air Transportation	Support Activities for Air Transportation	

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code.
Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code and Section 16428.8, Government Code.

§ 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 or Table 8-3, as applicable according to compliance period, shall be eligible for direct allocations of California GHG allowances if it has complied with the requirements of MRR and has obtained a positive or qualified positive product data verification statement for the prior year pursuant to MRR.

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(c) Electrical Distribution Utilities that are not covered entities but are listed in Tables 9-3, 9-3A, and 9-4 must register pursuant to section 95830 to receive allowances.

(d) Eligibility Requirements for University Covered Entities and Public Service Facilities. A ~~U~~university ~~C~~covered ~~E~~entity or public service facility that is ~~not~~ a covered entity that had a compliance obligation in 2013 and/or 2014, or a university or public service facility that is an opt-in covered entity that submitted its request to opt in pursuant to 95813 by July 31, 2014, shall be eligible for direct allocations of California GHG allowances if it has complied with the requirements of MRR and has obtained a positive or qualified positive emissions data verification statement for the prior year pursuant to MRR ~~and if it had a compliance obligation in 2013 or 2014~~. ~~A university or public service facility that is an opt-in covered entity shall be eligible for direct allocation of California GHG allowances only if it submits a request to opt-in to the Cap-and-Trade Program pursuant to section 95813 no later than July 31, 2014 and if it has complied with the requirements of MRR section 95103 and has obtained a positive or qualified positive emissions data verification statement for the prior year pursuant to MRR section 95103(f).~~ A university or public service facility shall not be eligible for any direct allocation of allowances for any data year for which it is not a covered entity or an opt-in covered entity.

(e) Eligibility Requirements for Legacy Contract Generators. A legacy contract generator with an industrial counterparty that has demonstrated its eligibility to

the satisfaction of the Executive Officer pursuant to section 95894 of this regulation shall be eligible for direct allocation of allowances if it has complied with the requirements of MRR and has obtained a positive or a qualified positive emissions data verification statement pursuant to MRR. ~~A legacy contract generator without an industrial counterparty that has demonstrated its eligibility to the satisfaction of the Executive Officer pursuant to section 95894 of this regulation shall be eligible for direct allocation of allowances if it has complied with the requirements of MRR and has obtained a positive or a qualified positive emissions data verification statement pursuant to MRR.~~

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(h) No facility receiving allowances pursuant to section 95870(f) may also receive allowances pursuant to section 95870(g), and no facility receiving allowances pursuant to section 95871(e) may also receive allowances pursuant to section 95871(f).

(i) No facility that qualifies for a limited exemption pursuant to section 95852(j) may also receive allowances pursuant to sections 95870, 95871, 95890, 95891, or 95894 for the same budget year.

(j) Negative Allowance Allocation. If the calculation of an entity's annual allowance allocation is negative pursuant to section 95891, 95892, or 95894 and the entity has a direct corporate association pursuant to section 95833 with any other covered or opt-in covered entity that was eligible for allocation pursuant to sections 95891, 95892, or 95894, then the negative amount shall be applied to that direct corporate associate. If negative allowance allocation remains, then that amount shall be applied to the allowance allocation that is distributed the following calendar year to the entity or the entity with a direct corporate association.

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 allocation calculation methodology specified in section 95891(b) if the entity conducts an activity listed in both ~~Table 8-1 and~~ Table 9-1 and either Table 8-1 or Table 8-3, as applicable according to compliance period. The Executive Officer shall determine the amount of allowances directly allocated to each eligible covered entity or opt-in covered entity using the energy-based allocation calculation methodology specified in section 95891(c) if the entity conducts an activity listed in either Table 8-1 or Table 8-3, as applicable according to compliance period, but not listed in Table 9-1.

~~(1) First Compliance Period Refining Sector Allocation Exception. For budget years 2013-2014 petroleum refineries shall receive their allocation of allowances pursuant to the methodology stated in section 95891(d).~~

~~(2) Second and Third Compliance Period Refining Sector Allocation. For budget years 2015-2020, petroleum refineries shall receive their allocation of allowances pursuant to the product output-based allocation calculation methodology stated in section 95891(b), using the complexity weighted barrel definition detailed in 95802(a).~~

(~~3~~1) New Entrant Industrial Allocation Without Leakage Risk. Covered facilities that ~~had emissions below the inclusion threshold as outlined in 95812(c) prior to 2012 and~~ do not have a leakage risk in Table 8-1 or Table 8-3, as applicable according to compliance period, are eligible to receive allocated allowances under the new entrant energy-based allocation methodology pursuant to 95891(c)(2~~3~~) if the first three digits of the facility NAICS code matches a NAICS code in Table 8-1 or Table 8-3, as applicable according to compliance period. The leakage risk classification shall be at the classification with the lowest assistance factor above zero until a leakage risk classification is added for that sector. Food processors that are only classified by a three digit NAICS code are exempt from this classification.

(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:

$$\underline{A_t = InitialAllocation_t + TrueUp_t}$$

$$\cancel{A_t = \left(\sum_{a=1}^{n} O_{a,t-2} * B_a * AF_{a,t} * c_{a,t}\right) + TrueUp_t}$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to the operator of an industrial facility for all activities with a product output-based allocation from budget year "t";

<u>"$InitialAllocation_t$" is the amount of allowances allocated to an entity in advance of budget year "t" for budget year "t" industry assistance. This amount is calculated using previously reported production at the facility from year "t-2," which is an estimate of year "t" production. If the entity will not be performing activity "a" listed in Table 8-1 or Table 8-3, as applicable according to compliance period, in year "t", then the entity is not eligible for $InitialAllocation_t$; and</u>

"t" is the budget year from which the direct allocation occurs~~;~~<u>.</u>

$$\underline{InitialAllocation_t = \left(\sum_{a=1}^{n} O_{a,t-2} * B_a * AF_{a,t} * c_{a,t}\right)}$$

<u>Where:</u>

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

"a" is each eligible activity as defined in Table 9-1;

"n" is the number of eligible activities at a facility;

"$O_{a,-t-2}$" will be calculated by the Executive Officer as the output for activity "a" in year "t-2" as reported to ARB.

"B_a" is the emissions efficiency benchmark per unit of output for ~~each eligible~~ activity "a" defined in Table 9-1;

"$AF_{a,t}$" is the assistance factor for budget year "t" assigned to each activity "a" as specified in Table 8-1 or Table 8-3, as applicable according to compliance period;

"$c_{a,t}$" is the adjustment factor for budget year "t" assigned to each activity "a" to account for cap decline as specified in Table 9-2; and

"~~$trueup_t$~~$TrueUp_t$" is the amount of true-up allowances allocated to account for changes in production or allocation not properly accounted for in prior allocations. This value shall only be calculated if the entity was covered under the Cap-and-Trade Program in year "t-2." ~~Entities allocated to under 95891(d) for budget years 2013 and 2014 will not be allocated true-up allowances under this methodology for hydrogen production in those data years. This value of allowances for~~These true-up allowances from budget year "t" ~~shall be allowed to~~may be used for compliance for budget year "t-2" or subsequent budget years pursuant to 95856(h)(1)(D) and 95856(h)(2)(D). This value is calculated using the following formula:

$$\cancel{TrueUp_t = \left(\sum_{a=1}^{n} O_{a,t-2} * B_a * AF_{a,t-2} * c_{a,t-2}\right) - A_{t-2,no\ trueup}}$$

$$\underline{TrueUp_t = \left(\sum_{a=1}^{n} O_{a,t-2} * B_a * AF_{a,t-2} * c_{a,t-2}\right) - InitialAllocation_{t-2}}$$

Where:

"$O_{a,-t-2}$" will be calculated by the Executive Officer as the output for activity "a" in year "t-2" as reported to ARB;

~~"$A_{t-2,no\ trueup}$" is the amount of California GHG allowances directly allocated to the operator of an industrial facility for all activities from budget year "t-2" not including the true-up for that budget year;~~

"$AF_{a,-t-2}$" is the assistance factor for budget year "t-2" assigned to each activity "a" as specified in Table 8-1 or Table 8-3, as applicable according to compliance period; and

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

Table 9-1: Product-Based Emissions Efficiency Benchmarks

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
Crude Petroleum and Natural Gas Extraction	211111	Thermal EOR Crude Oil Extraction	0.0811	Allowances / Barrel of Oil Eqv. Produced Using Thermal EOR
		Non Thermal Crude Oil Extraction	0.0076	Allowances / Barrel of Non Thermal Crude Oil Eqv.
		Natural Gas Processing ≥ 25 MMscf/day	0.0220	Allowances / Barrel of Gas Processed Eqv.
Natural Gas Liquid Extraction	211112	Natural Gas Liquid Processing	0.0118	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. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of Soda Ash Equivalent (Soda Ash, Biocarb, Borax, V-Bor, DECA, PYROBOR, Boric Acid, and Sulfate)

All Other Nonmetallic Mineral Mining	212399	Freshwater Diatomite Filter Aids Manufacturing	0.418. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of Freshwater Diatomite Filter Aids

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
Fruit and vegetable canning	311421	Aseptic Tomato Paste Processing	0.353	Allowances / Short Ton of 31% NTSS Aseptic Tomato Paste
		Aseptic Whole and Diced Tomato Processing	0.179	Allowances / Short Ton of Aseptic Whole and Diced Tomatoes
		Non-Aseptic Tomato Paste and Tomato Puree Processing	0.315	Allowances / Short Ton of 24% NTSS Non-Aseptic Tomato Paste and Tomato Puree
		Non-Aseptic Whole and Diced Tomato Processing	0.135	Allowances / Short Ton of Non-Aseptic Whole and Diced Tomatoes
		Non-Aseptic Tomato Juice Processing	0.163	Allowances / Short Ton of Non-Aseptic Tomato Juice
Poultry Processing	311615	Whole Chicken and Chicken Parts Processing	0.0330	Allowances / Short Ton of Whole Chicken and Chicken Parts

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
		Poultry Deli Product Processing	0.0353	Allowances / Short Ton of Poultry Deli Product
		Protein Meal and Fat Processing	0.396	Allowances / Short Ton of Protein Meal and Fat
Dried and Dehydrated Food Manufacturing	311423	Dehydrated Garlic Processing	0.824	Allowances / Short Ton of Dehydrated Garlic
		Dehydrated Onion Processing	1.01	Allowances / Short Ton of Dehydrated Onion
		Dehydrated Chili Pepper Processing	1.29	Allowances / Short Ton of Dehydrated Chili Pepper
		Dehydrated Spinach Processing	5.56	Allowances / Short Ton of Dehydrated Spinach
		Dehydrated Parsley Processing	3.21	Allowances / Short Ton of Dehydrated Parsley
Dairy Product Manufacturing	31151	~~Milk, Buttermilk, Skim Milk, and Ultrafiltered~~Fluid Milk Product Processing	~~0.0147~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of Fluid Milk Product, ~~Buttermilk, Skim Milk, and Ultrafiltered Milk~~

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
		Anhydrous Milk Fat Processing ~~Cream processing~~	~~0.0153~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of ~~Cream~~Anhydrous Milk Fat
		Butter processing	~~0.0391~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of Butter
		Condensed Milk Processing	~~0.0368~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of Condensed Milk

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
		~~Nonfat Dry Milk and Skimmed~~ Milk Powder (Low Heat) Processing	~~0.380~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of ~~Nonfat Dry Milk and Skimmed~~ Milk Powder (Low Heat)
		~~Nonfat Dry Milk and Skimmed~~ Milk Powder (Medium Heat and High Heat) Processing	~~0.425~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of ~~Nonfat Dry Milk and Skimmed~~ Milk Powder (Medium Heat and High Heat)
		Buttermilk Powder Processing	~~0.501~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of Buttermilk Powder
		~~Dairy Product Solids for Animal Feed Processing~~	~~0.0241~~	~~Allowances / Short Ton of Dairy Product Solids for Animal Feed~~

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
		Intermediate Dairy Ingredients Processing	~~0.0808~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of Intermediate Dairy Ingredients
		Cheese Processing	0.114	Allowances / Short Ton of Cheese
		Lactose Processing	0.272	Allowances / Short Ton of Lactose
		Whey Protein Concentrate Processing	1.28	Allowances / Short Ton of Whey Protein Concentrate
		Deproteinized Whey Processing	0.764	Allowances / Short Ton of Deproteinized Whey
~~Roasted Nuts and Peanut Butter Manufacturing~~	~~311911~~	~~Pistachio Processing~~	~~0.221~~	~~Allowances / Short Ton of Pistachios~~
		~~Almond Processing~~	~~0.0714~~	~~Allowances / Short Ton of Almonds~~
Snack Food Manufacturing	31191	Fried Potato Chips Processing	0.834	Allowances / Short Ton of Fried Potato Chips
		Baked Potato Chips Processing	0.517	Allowances / Short Ton of Baked Potato Chips

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
		Corn Chips Processing	0.580	Allowances / Short Ton of Corn Chips
		Corn Curls Processing	0.446	Allowances / Short Ton of Corn Curls
		Pretzel Processing	0.633	Allowances / Short Ton of Pretzels
Beet sugar manufacturing	311313	Beet sugar manufacturing	0.611	Allowances / short ton Granulated-Refined Sugar
Breweries	312120	Lager Beer Manufacturing	0.178	Allowances / Thousand Gallons of Lager Beer
Wineries	312130	Distilled Spirits Production	1.13×10^{-3}	Allowances / Proof Gallons of Distilled Spirits
		Dry Color Concentrate Production	12.0	Allowances / Short ton of Dry Color Concentrate
		Grape Juice Concentrate Production	1.59×10^{-3}	Allowances / Gallons of Grape Juice Concentrate
		Grape Seed Extract Production	9.48	Allowances / Short ton of Grape Seed Extract

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
		Liquid Color Concentrate Production	6.95×10^{-3}	Allowances / Gallons of Liquid Color Concentrate
~~Paper (except Newsprint) Mills~~	~~322121~~	~~Bathroom Tissue Manufacturing~~	~~0.108~~	~~Allowances / Air Dried Short Ton of Bathroom Tissue produced adjusted by water absorption capacity~~
		~~Facial Tissue Manufacturing~~	~~1.32~~	~~Allowances / Air Dried Short Ton of Facial Tissue~~
		~~Delicate Task Wipers Manufacturing~~	~~1.32~~	~~Allowances / Air Dried Short Ton of Delicate Task Wipers~~
		~~Paper Towel Manufacturing~~	~~1.54~~	~~Allowances / Air Dried Short Ton of Paper Towel~~
Paperboard Mills	322130	Recycled Boxboard Manufacturing	0.516	Allowances / Air Dried Short Ton of Recycled Boxboard
		Recycled Linerboard (Testliner) Manufacturing	0.562	Allowances / Air Dried Short Ton of Recycled Linerboard
		Recycled Medium (Fluting) Manufacturing	0.392	Allowances / Air Dried Short Ton of Recycled Medium
Petroleum Refineries	324110	Petroleum Refining	3.89	Allowances / Complexity Weighted Barrel

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
All Other Petroleum and Coal Products Manufacturing	324199	Coke Calcining	0.632	Allowances/ Metric Ton Calcined Coke
Industrial Gas Manufacturing	325120	On–Purpose Hydrogen Gas Production	8.94	Allowances / Metric Ton of On–Purpose Hydrogen Gas
		Liquid Hydrogen Production	11.9	Allowances / Metric Ton of Liquid Hydrogen Sold
All Other Basic Inorganic Chemical Manufacturing	325188	Sulfuric Acid Regeneration	0.147	Allowances / Short Ton of Sulfuric Acid Produced
Nitrogenous Fertilizer Manufacturing	325311	Nitric Acid Production	~~0.349~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short ton of nitric acid (HNO_3 100%)

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
		Calcium Ammonium Nitrate Solution Production	~~0.0902~~. *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short ton of Calcium Ammonium Nitrate Solution
Flat Glass Manufacturing	327211	Flat glass Manufacturing	0.495	Allowances / Short Ton of Flat Glass Pulled
Glass Container Manufacturing	327213	Container Glass Manufacturing	0.270	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	0.742	Allowances / Short ton of adjusted clinker and mineral additives produced
Lime Manufacturing	327410	Dolime Manufacturing	1.40	Allowances / Short Ton of Dolime Produced
Gypsum Product Manufacturing	327420	Plaster Manufacturing	0.0454	Allowances / Short Ton of Plaster Sold as a Separate Finished Product

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
		Stucco Manufacturing	0.134	Allowances / Short Ton of Stucco used to produce saleable plasterboard
Iron and Steel Mills	331111	Steel Production Using an Electric Arc Furnace	0.170	Allowances / Short ton of Steel produced using EAF
Secondary smelting and alloying of aluminum	331314	Aluminum and Aluminum Alloy Billet Manufacturing	0.371	Allowances / Short ton of Aluminum and Aluminum alloy Billet
Secondary smelting, refining, and alloying of nonferrous metal (except copper and aluminum)	331492	Lead Acid Battery Recycling	~~0.403~~ *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short Ton of Lead and Lead Alloys
Iron Foundries	331511	Ductile Iron Pipe Manufacturing	0.561	Allowances / Short ton of Ductile Iron Pipes

NAICS Sector Definition	NAICS code	Activity (a)	Benchmark (B_a)	Benchmark Units
Nonferrous Forging	332112	Seamless Rolled Ring	~~3.14~~ *[Staff may propose a change to this benchmark as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*	Allowances / Short ton of Seamless Rolled Ring
Rolled Steel Shape Manufacturing	331221	Hot Rolled Steel Sheet Production	0.0843	Allowances / Short ton of hot rolled steel sheet
		Pickled Steel Sheet Production	0.0123	Allowances / Short ton of pickled steel sheet
		Cold Rolled and Annealed Steel Sheet Production	0.0520	Allowances / Short ton of cold rolled and annealed steel sheet
Rolled Steel Shape Manufacturing Turbine and Turbine Generator Set Units Manufacturing	331221 333611	Galvanized Steel Sheet Production	0.0504	Allowances / Short ton of galvanized steel sheet
		Tin Steel Plate Production	0.111	Allowances / Short ton of tin plate
		Testing of Turbines and Turbine Generator Sets	0.00782	Allowances / Horsepower tested

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

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

Where:

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

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

"$S_{Consumed}$" is the historical baseline annual arithmetic mean amount of steam consumed, measured in MMBtu, at the industrial facility for any industrial process, including heating or cooling applications. This value shall exclude any steam used to produce electricity. This value shall exclude steam produced from an onsite cogeneration unit;

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

"$F_{Consumed}$" is the historical baseline annual arithmetic mean amount of energy produced due to fuel combustion at 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 (October 20, 2009). This value shall include any energy from fuel combusted in an onsite electricity generation or cogeneration unit. This value shall exclude energy to generate the steam accounted for in the "$S_{Consumed}$" term;

"B_{Fuel}" is the emissions efficiency benchmark per unit of energy from fuel combustion, 0.05307 California GHG Allowances/MMBtu;

"e_{Sold}" is the historical baseline annual arithmetic mean amount of electricity sold or provided for off-site use, 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;

"$AF_{a,t}$" is the assistance factor for budget year "t" assigned to the facility for activity "a" as specified in Table 8-1 and Table 8-3, as applicable according to compliance period; and

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

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~~(2) Maximum Free Allocation. The Executive Officer shall ensure that the annual amount of California GHG Allowances directly allocated under the 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, adjusted for steam purchases and sales and electricity sales, emitted during the historical data years used in establishing the baseline allocation for the facility in question.~~

(~~3~~2) New Entrants Energy-based Allocation Methodology. For covered facilities that are eligible for free allocation pursuant to section 95891(c) and either were not allocated InitialAllocation from budget year t-1 or were allocated under 95891(c)(2) from budget year t-1 ~~whose emissions exceeded the inclusion threshold pursuant to 95812(c) in 2012 or subsequent years, or opted into the program in 2012 or subsequent years, and are eligible for free~~

~~allocation under the energy-based methodology~~, allowance~~s~~ allocation shall be determined by the Executive Officer using the following methodology.

(A) Opt-In Covered Entities without Historical Baseline Emissions Data. For opt-in covered entities of facilities that have no historical emissions data reported to ARB under MRR, the Executive Officer shall calculate the amount of California GHG Allowances directly allocated under the energy-based methodology annually using the following formula:

$$\cancel{A_{a,t} = \left(F_{Consumed,est} * B_{Fuel} - e_{sold,est} * B_{Elect}\right) * AF_{a,t} * c_{a,t}}$$
$$\underline{A_{a,t} = \left(F_{Consumed,est} \times B_{Fuel} - e_{sold,est} \times B_{Electricity}\right) \times AF_{a,t} \times c_{a,t}}$$

Where:

"$A_{a,t}$" is the amount of California GHG Allowances directly allocated to the operator of an industrial facility for activity "a" with an energy-based allocation from budget year "t";

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

"$F_{Consumed,est}$" is the estimated amount of energy produced due to fuel combustion at ~~a given~~the facility, measured in MMBtu. This value shall exclude fuel used to produce steam that is provided or sold offsite. 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 (December 17, 2010). The Executive Officer shall calculate this value utilizing any available data on the design of the facility and equipment;

"B_{Fuel}" is the emissions efficiency benchmark per unit of energy from fuel combustion, 0.05307 California GHG Allowances/MMBtu;

"$e_{Sold,est}$" is the estimated amount of electricity sold or provided for off-site use, measured in MWh. The Executive Officer shall calculate this value utilizing any available data on the design of the facility and equipment;

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

"$AF_{a,t}$" is the assistance factor for budget year "t" assigned to the facility activity "a" as specified in Table 8-1 <u>or Table 8-3, as applicable according to compliance period</u>; and

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

(B) Entities with Transitional Emissions Data. For covered entities or opt-in covered entities that are classified as transitional in the stability formula in 95891(c)(2~~3~~)(D), the Executive Officer shall calculate the amount of California GHG Allowances directly allocated under the energy-based methodology annually using the following formula:

$$\underline{A_{a,t} = InitialAllocation_t + TrueUp_t}$$

$$\cancel{A_{a,t} = \left(F_{t-2} * 0.05307 + \left(S_{Purchased,t-2} - S_{Sold,t-2}\right) * 0.06244 - e_{sold,t-2} * 0.431\right) * AF_{a,t} * c_{a,t} + TrueUp_t}$$

Where:

"$A_{a,t}$" is the amount of California GHG Allowances directly allocated to the operator of an industrial facility with activity "a" with an energy-based allocation from budget year "t";

"InitialAllocation$_t$" is the amount of allowances allocated to an entity in advance of budget year "t" for industry assistance for budget year "t." This amount is based on energy use in year "t-2," which is an estimate of year "t" energy use. These allowances shall be returned to the Executive Officer pursuant to section 95835(f) if the entity does not incur a compliance obligation for year "t" or does not perform activity "a" listed in Table 8-1 or Table 8-3, as applicable according to compliance period, in year "t"; and

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

$$InitialAllocation_t = \left(F_{t-2} * 0.05307 + \left(S_{Purchased,t-2} - S_{Sold,t-2}\right) * 0.06244 - e_{sold,t-2} * 0.431\right) * AF_{a,t} * c_{a,t}$$

Where:

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

"F_{t-2}" is the annual amount of energy produced due to fuel combustion at a given facility for year "t-2", 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 (November 29, 2013). This value shall include any energy from fuel combusted in an onsite electricity generation or cogeneration unit;

"$S_{Purchased,t-2}$" is the annual amount of steam purchased for year "t-2" by the facility in MMBtu as reported to ARB under MRR;

"$S_{Sold,t-2}$" is the annual amount of steam provided or sold for year "t-2" from the facility in MMBtu as reported to ARB under MRR;

"$e_{Sold,t-2}$" is the annual amount of electricity sold for year "t-2" from the facility in MWh as reported to ARB under MRR;

"$AF_{a,t}$" is the assistance factor for budget year "t" assigned to the facility activity "a" as specified in Table 8-1 or Table 8-3, as applicable according to compliance period;

"$c_{a,t}$" is the adjustment factor for budget year "t" assigned to the facility activity "a" to account for cap decline as specified in Table 9-2; and

"~~$trueup_t$~~$TrueUp_t$" is the amount of true-up allowances allocated to account for changes in production or allocation not properly accounted for in prior allocations. This value shall only be calculated if the entity was covered under the Cap-and-Trade Program in year "t-2". This value of allowances for budget year "t" shall be allowed to be used for compliance for budget year "t-2" or subsequent budget years pursuant to section 95856(h)(1)(D) and 95856(h)(2)(D). This value is calculated using the following formula:

$$\cancel{TrueUp_t = (BE_{t-2} * AF_{a,t-2} * c_{a,t-2} - A_{a,t-2,no\ trueup})}$$

$$\underline{TrueUp_t = BE_{t-2} * AF_{a,t-2} * c_{a,t-2} - InitialAllocation_{t-2}}$$

Where:

~~"$A_{a,t-2,no\ trueup}$" is the amount of California GHG Allowances directly allocated to the operator of an industrial facility for activity "a" with an energy-based allocation from budget year "t-2" not including the true-up for that budget year;~~

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

"$AF_{a,t-2}$" is the assistance factor for budget year "t-2" assigned to the facility activity "a" as specified in Table 8-1 or Table 8-3, as applicable according to compliance period;

"$c_{a,t-2}$" is the adjustment factor for budget year "t-2" assigned to the facility for activity "a" to account for cap decline as specified in Table 9-2;

"BE_{t-2}" is the baseline annual greenhouse gas emissions for year "t-2" adjusted for steam purchases and sales and electricity sales using the following equation:

$$BE_{t-2} = F_{t-2} * 0.05307 + \left(S_{Purchased,t-2} - S_{Sold,t-2}\right) * 0.06244 - e_{sold,t-2} * 0.431$$

Where:

"F_{t-2}" is the annual amount of energy produced due to fuel combustion in year "t-2" at ~~a given~~the 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 (November 29, 2013). This value shall include any energy from fuel combusted in an onsite electricity generation or cogeneration unit;

"$S_{Purchased,t-2}$" is the annual amount of steam purchased for year "t-2" by the facility in MMBtu;

"$S_{Sold,t-2}$" is the annual amount of steam sold for year "t-2" from the facility in MMBtu; and

"$e_{Sold,t-2}$" is the annual amount of electricity sold for year "t-2" from the facility in MWh.

(C) Entities with Stable Emissions Data. For covered entities or opt-in covered entities classified as stable in the stability formula in 95891(c)(2~~3~~)(D), the Executive Officer shall calculate the amount of California GHG Allowances directly allocated under the energy-based methodology annually using the methodology in 95891(c). The allocation for all subsequent years shall be determined using this methodology.

~~(~~1.~~)~~ Data Years. The data years used in determining the appropriate baseline values shall match "t-2", "t-3", and "t-4" used in the stability formula when the emissions were first classified stable. The Executive Officer may employ all available data reported to ARB under MRR. If necessary, the Executive Officer will solicit additional data to establish a representative baseline allocation.

(D) Stability Formula for New Entrants. The following formula classifies the allocation methodology for budget year "t":

$$0.10 \geq \frac{BE_{t-2} - \frac{BE_{t-4} + BE_{t-3}}{2}}{BE_{t-2}} \text{ (Stable)}$$

$$0.10 < \frac{BE_{t-2} - \frac{BE_{t-4} + BE_{t-3}}{2}}{BE_{t-2}} \text{ (Transitional)}$$

Where:

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

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

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

"t-4" is the year four years prior to year "t"; and

"BE_t" is the baseline annual greenhouse gas emissions for year "t" adjusted for steam purchases and sales and electricity sales. If the entity was not a covered entity in year "t," then BE_t is equal to zero. If the entity was a covered entity in year "t," then BE_t is calculated using the following equation:

$$BE_t = F_t * 0.05307 + \left(S_{Purchased,t} - S_{Sold,t}\right) * 0.06244 - e_{sold,t} * 0.431$$

Where:

"F_t" is the annual amount of energy produced due to fuel combustion in year "t" at ~~a given~~the 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 (November 29, 2013). This value shall include any energy from fuel combusted in an onsite electricity generation or cogeneration unit;

"$S_{Purchased,t}$" is the annual amount of steam purchased for year "t" by the facility in MMBtu;

"$S_{Sold,t}$" is the annual amount of steam sold for year "t" from the facility in MMBtu; and

"$e_{Sold,t}$" is the annual amount of electricity sold for year "t" from the facility in MWh.

~~(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 pursuant to section 95812(e) shall no longer be eligible to receive allowances.~~

(3) If an entity receiving allocation under 95891(c) does not perform activity "a" in a year for which it was allocated allowances, and is not otherwise subject to true-up allocation under section 95891(c), the entity must return to the

Executive Officer all allowances allocated for that year, pursuant to section 95835(f). Further, if an entity receiving allocation under 95891(c) shuts down and therefore ceases to perform activity “a” part way through a year for which it was allocated allowances, and the entity is not otherwise subject to true-up allocation under section 95891(c), the entity must return to the Executive Officer allowances equivalent to the proportion of the year during which activity “a” was not performed. These allowances must be returned pursuant to section 95835(f).

~~(d) First Compliance Period Refining Sector Allocation Calculation Methodology. For the budget years 2013-2014, the Executive Officer shall calculate the amount of California GHG allowances allocated to an individual petroleum refinery annually using the following methodology.~~

~~(1) Facilities without an EII value. For refineries that did not participate in the 2008 Solomon Energy Review, or that do not have a representative EII value as determined by the Executive Officer, allowances will be allocated using the following approach:~~

~~(A) Initial allocations for 2013 and 2014 vintage allowances will be allocated using the following equations:~~

~~If:~~ $O_{X,t-2} * B_R * c_t * AF_{R,t} \leq BE_X * c_t * AF_{R,t}$

~~Then:~~ $A_{X,t} = O_{X,t-2} * B_R * c_t * AF_{R,t}$

~~If:~~ $O_{X,t-2} * B_R * c_t * AF_{R,t} > BE_X * c_t * AF_{R,t}$

~~Then:~~ $A_{X,t} = BE_X * c_t * AF_{R,t}$

~~Where:~~

~~“$A_{X,t}$” is the allocation to refinery “X” without an EII value for year “t”;~~

~~“$O_{X,t-2}$” is the output of primary refinery products, in barrels, from refinery “X” in year “t-2”;~~

~~"B_R" is the benchmark for primary products produced by the refining sector, equal to 0.0462 metric tons of allowances per barrel of primary product;~~

~~"$AF_{R,t}$" is the assistance factor for budget year "t" assigned to petroleum refining as specified in Table 8-1; and~~

~~"c_t" is the adjustment factor for budget year "t" assigned to petroleum refining to account for cap decline as specified in Table 9-2.~~

~~"BE_X" is the baseline average annual greenhouse gas emissions for refinery "X" adjusted for steam purchases and sales and electricity sales using the following equation:~~

$$\cancel{BE_X = GHG + (S_{Purchased} - S_{Sold}) * 0.06244 - e_{Sold} * 0.431}$$

~~"GHG" is the annual arithmetic mean amount of greenhouse gas emissions from the refinery;~~

~~"$S_{Purchased}$" is the annual arithmetic mean amount of steam purchased by the refinery in MMBtu;~~

~~"S_{Sold}" is the annual arithmetic mean amount of steam sold from the refinery in MMBtu;~~

~~"e_{Sold}" is the annual arithmetic mean amount of electricity sold from the refinery in MWh;~~

~~To calculate these values, the Executive Officer may employ data reported to ARB for data years 2008-2010. If the facility reported facility-level, third-party verified, greenhouse gas emissions data to the~~

~~California Climate Action Registry for data years 2006-2007, the Executive Officer may consider these years in determining representative baseline values. If necessary, the Executive Officer will solicit data to establish a representative baseline.~~

~~(B) Trueup. In calendar years 2014 and 2015, allowance values as calculated for petroleum refineries in Section 95891(b) will be adjusted to account for actual 2013 and 2014 product output. If the entity received initial allowances based on output then the following equation will he used to calculate the true up using actual output:~~

$$\cancel{TrueUp_{X,t} = (O_{X,t-2} * B_R * c_{t-2} * AF_{R,t-2}) - A_{X,t-2}}$$

~~Where:~~

~~"$TrueUp_{X,t}$" is the amount true-up allowances allocated to account for changes in production or allocation not properly accounted for in prior allocations for refinery "X". This value of allowances for budget year "t" shall be allowed to be used for compliance for budget year "t-2" and subsequent years pursuant to 95856(h)(1)(D) and 95856(h)(2)(D).~~

~~"$A_{X,t-2}$" is the allocation to refinery "X" without an EII value for year "t-2."~~

~~If the entity received initial allocation based on emissions the following true-up equation will be used:~~

~~If: $(AE_{X,t-2}) < BE_X * 0.8$~~

~~Then: $TrueUp_{X,t} = (AE_{X,t-2} * c_{t-2} * AF_{R,t-2}) - A_{X,t-2}$~~

~~Where:~~

~~"$AE_{X,t-2}$" is the covered greenhouse gas emissions for refinery "X" for the data two years before budget year "t," adjusted for steam purchases and sales and electricity sales using the following equation:~~

$$\cancel{AE_{X,t-2} = GHG_{t-2} + \left(S_{Purchased,t-2} - S_{Sold,t-2}\right) * 0.06244 - e_{Sold,t-2} * 0.431}$$

~~"GHG_{t-2}" is the covered greenhouse gas emissions from the refinery in year "t-2";~~

~~"$S_{Purchased,t-2}$" is the amount of steam purchased by the refinery in year "t-2" in MMBtu;~~

~~"$S_{Sold,t-2}$" is the amount of steam sold from the refinery in year "t-1" in MMBtu;~~

~~"$e_{Sold,t-2}$" is the amount of electricity sold from the refinery in year "t-2" in MWh;~~

~~(2) Facilities with an EII® value. For refineries that participated in the 2008 Solomon Energy Review and have a representative EII® value, allowances will be allocated using the following approach:~~

~~(A) Initial Allocations. 2013 and 2014 vintage allowances will be allocated using the following equation:~~

$$\cancel{A_{Y,t} = BE_Y * DF_{Y,t} * F_t}$$

~~Where:~~

~~"$A_{Y,t}$" is the initial allocation to refinery "Y" that has an EII® value for year "t";~~

~~"BE_Y" is the baseline average annual greenhouse gas emissions for refinery "Y" adjusted for steam purchases and sales and electricity sales using the following equation:~~

$$\cancel{BE_Y = GHG + (S_{Purchased} - S_{Sold}) * 0.06244 - e_{Sold} * 0.431}$$

~~"GHG", for the purposes of this calculation, is the annual arithmetic mean amount of greenhouse gas emissions from the refinery;~~

~~"$S_{Purchased}$" is the annual arithmetic mean amount of steam purchased by the refinery in MMBtu;~~

~~"S_{Sold}" is the annual arithmetic mean amount of steam sold from the refinery in MMBtu;~~

~~"e_{Sold}" is the annual arithmetic mean amount of electricity sold from the refinery in MWh;~~

~~To calculate these values, the Executive Officer may employ data reported to ARB for data years 2008-2010. If the facility reported facility level, third-party verified, greenhouse gas emissions data to the California Climate Action Registry for data years 2006-2007, the Executive Officer may consider these years in determining representative baseline values. If necessary, the Executive Officer will solicit data to establish a representative baseline allocation;~~

~~"$DF_{Y,t}$" is a distribution factor calculated as:~~

$$\cancel{DF_{Y,t} = ((Avg / EII_Y) + Adj_t) / (1 + Adj_t)}$$

~~"Avg" is the weighted average EII for all facilities with EII values calculated as:~~

$$\cancel{Avg = \frac{\sum BE_Y}{\sum (BE_Y / EII_Y)}}$$

~~"EII_Y" is the Solomon Energy Intensity Index (EII) for facility Y for 2008, 2009 or 2010 as determined to be representative by the Executive Officer. For the purposes of this calculation, EII values shall be rounded to one digit after the decimal;~~

~~"Adj" is an adjustment factor designed to provide the facility with the best EII the most allowances relative to its baseline level:~~

$$\cancel{Adj_t = ((Avg/EII_{Best}) * F_t - 1) / (1 - F_t)}$$

~~"EII_{Best}" is the EII of most efficient facility (lowest EII in sector);~~

~~"F_t" is a fraction calculated as:~~

$$\cancel{F_t = \frac{SA_t - \sum A_{X,t}}{\sum BE_Y}}$$

~~"SA_t" is the allocation to refining sector for year "t" specified in section 95870(e)(2)(A);~~

~~(B) True-up Debit. If actual 2013 and 2014 emissions are less than the amount of allowances allocated, the entity's allocation of budget year 2016 allowances under 95891(b) will be reduced according to the following equation:~~

~~If:~~ $\cancel{(AE_{Y,2013} + AE_{Y,2014}) < (A_{Y,2013} + A_{Y,2014})}$

~~Then:~~

$$\cancel{TrueUp_{Y,Debit,2016} = 0.8 * [(AE_{Y,2013} + AE_{Y,2014}) - (A_{Y,2013} + A_{Y,2014})]}$$

~~Where:~~

~~"$AE_{Y,t}$" = Actual GHG emissions from a facility in year "t" adjusted for heat sales and purchases and electricity sales.~~

~~"TrueUp$_{Y,Debit,2016}$" = the amount true-up allowances allocated from budget year 2016 to account for changes in production or allocation not properly accounted for in prior allocations for refinery "Y".~~

~~(C) True-up Credit. If actual 2013 and 2014 emissions are greater than the assumed baseline emissions, a true-up allocation will be conducted using 2016 vintage allowances and the following equation:~~

~~If: $(2 * BE_Y) < (AE_{Y,2013} + AE_{Y,2014})$~~

~~Then:~~

$$\cancel{\mathrm{TrueUp}_{Y,Credit,2016} = (AE_{Y,2013} * DF_{Y,2013} * F_{2013} * AF_{2013} + AE_{Y,2014} * DF_{Y,2014} * F_{2014} * AF_{2014}) - (A_{Y,2013} + A_{Y,2014})}$$

~~Where:~~

~~"TrueUp$_{Y,Credit,2016}$"is the amount of true-up allowances from budget year 2016 allocated to account for changes in production or allocation not properly accounted for in prior allocations for refinery "Y". This value of allowances for budget year 2016 shall be allowed to be used for compliance for budget year 2013 and subsequent years pursuant to 95856(h)(1)(D) and 95856(h)(2)(D).~~

(~~e~~d) Allocation to University Covered Entities and Public Service Facilities. The Executive Officer shall calculate the amount of allowances directly allocated to a ~~U~~university covered entity or a public service facility using the following methods.~~formulas:~~

~~(1) Budget Year 2015 Allocation. For budget year 2015, the Executive Officer shall calculate the amount of California GHG Allowances directly allocated to eligible University Covered Entities or Public Service Facilities using the following formula.~~

$$\cancel{A_{2015} = \left(F_{consumed} * B_{Fuel} - Q_{sold} * 0.06244 - e_{sold} \times B_{electricity}\right) * c_t + \sum_{t=2013}^{2014} TrueUp_t}$$

~~Where:~~

~~"A_{2015}" is the amount of California GHG allowances directly allocated to a university or public service facility from budget year 2015;~~

~~"$F_{consumed}$" is the historical baseline annual arithmetic mean amount of energy produced due to fuel combustion at the 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 from fuel combusted in an onsite electricity generation or cogeneration unit. For a university opt-in covered entity that purchases qualified thermal output from a public service facility, "$F_{consumed}$" includes the emissions associated with qualified thermal output purchased, calculated as MMBtu of qualified thermal output purchased multiplied by 0.06244.~~

~~"B_{Fuel}" is the emissions efficiency benchmark per unit of energy from fuel combustion, 0.05307 California GHG Allowances/MMBtu;~~

~~"Q_{sold}" is the quantity of qualified thermal output sold or provided to an entity other than the university or local government which owns the facility, or takes service from the Public Service Facility;~~

~~"e_{Sold}" is the historical baseline annual arithmetic mean amount of electricity sold or provided to an entity other than the university or local government which owns or takes service from the Public Service Facility, measured in 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;~~

~~"c_t" is the adjustment factor for budget year "t" to account for cap decline as specified in Table 9-2.~~

~~"$TrueUp_t$" is the amount of true-up allowances allocated to account for changes in allocation not properly accounted for in prior allocations. This value of allowances for budget year 2015 shall be allowed to be used for compliance for budget year 2013 and subsequent years pursuant to section 95856(h)(1)(D) and 95856(h)(2)(D). This value shall only be calculated for years in which the entity was covered under the Cap-and-Trade Program. This value is calculated using the following formula:~~

$$\cancel{TrueUp_t = \left(F_{consumed} * B_{Fuel} - Q_{sold} * .06244 - e_{sold} * B_{electricity}\right) * c_t}$$

~~Where:~~

~~"t" is the calendar year for which the trueup is providing a correction, 2013 and 2014.~~

~~(2~~1) Budget Years 2016 to 2020 Allocation. For budget years 2016 to 2020, the Executive Officer shall calculate the amount of California GHG Allowances directly allocated to eligible u~~U~~niversity c~~C~~overed e~~E~~ntities or p~~P~~ublic s~~S~~ervice f~~F~~acility~~y~~ies using the following formula~~.~~:

Where:

$$\cancel{A_t = \left(F_{consumed} * B_{Fuel} - Q_{sold} * .06244 - e_{sold} * B_{electricity}\right) * c_t}$$

$$\underline{A_t = \left(F_{consumed} * B_{Fuel} + (Q_{purchased} - Q_{sold}) * 0.06244 - e_{sold} * B_{electricity}\right) * c_t}$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to a university or public service facility for budget years "t" from 2016 to 2020.

"$F_{consumed}$" is the historical baseline annual arithmetic mean amount of energy produced due to fuel combustion at the 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 from fuel combusted in an onsite electricity generation or cogeneration unit;

"B_{Fuel}" is the emissions efficiency benchmark per unit of energy from fuel combustion, 0.05307 allowances/MMBtu;

"$Q_{purchased}$" is the quantity of qualified thermal output purchased by a university opt-in covered entity that purchases qualified thermal output from a public service facility;

"Q_{sold}" is the quantity of qualified thermal output sold or provided to an entity other than the university or local government which owns the facility, or which takes service from the public service facility;

"e_{Sold}" is the historical baseline annual arithmetic mean amount of electricity sold or provided to an entity other than the university or local government which owns or takes service from the public service facility, measured in MWhs;

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

"c_t" is the adjustment factor for budget year "t" to account for cap decline as specified in Table 9-2.

(2) [*Staff may propose post-2020 allocation as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.*]

***

(~~f~~e) Adjustment of Allowance Allocation to a Legacy Contract Counterparty. Industrial entities that receive an allowance allocation pursuant to section 95891 and are designated as a legacy contract counterparty shall have an adjustment to their allowance allocation. The Executive Officer shall subtract the allowances from the number of California GHG Allowances directly allocated to the legacy contract counterparty pursuant to 95891(b) ~~through 95891(d)~~or (c). If the legacy contract counterparty was not eligible for allocation pursuant to sections 95891(b) ~~through 95891(d)~~or (c) and the legacy contract counterparty has a direct corporate association pursuant to section 95833 with any other covered or opt-in entity that was eligible for allocation pursuant to sections 95891(b) ~~through 95891(d)~~or (c) then the entity with a direct corporate association who received industrial allocation pursuant to sections 95891(b) ~~through 95891(d)~~or (c) shall have its allowance allocation adjusted by the equations in this section.

~~(1) For budget year 2015, the allocation adjustment formula is as follows:~~

$$\cancel{Adj_{2015} = \sum_{t=2013}^{2015} A_{LC,t}}$$

~~Where:~~

~~"Adj_{2015}" is the allocation adjustment for budget year 2015. This number shall be subtracted from the number of California GHG allowances directly allocated to a legacy contract counterparty or direct corporate associated entity for budget year 2015.~~

~~"$A_{LC,t}$" is the allocation amount supplied to the legacy contract generator with an industrial counterparty calculated pursuant to section 95894;~~

(~~2~~1) For each budget year after 2015, the allocation adjustment formula is as follows:

$$Adj_{\cancel{T}t} = A_{LC,t}$$

Where:

"Adj_t" is the allocation adjustment for budget year "t". This number shall be subtracted from the number of California GHG allowances directly allocated to the Legacy Contract Counterparty or the entity with a direct corporate association for budget year "t"; and

"$A_{LC,t}$" is the allocation received by the legacy contract generator with an industrial counterparty in year "t" pursuant to section 95894.

(~~3~~2~~)~~ If the allocation adjustment is greater than the number of California GHG Allowances directly allocated to a legacy contract counterparty pursuant to sections 95891(b) ~~through (d)~~and (c), then the legacy contract counterparty will have a negative allowance allocation~~its allowance allocation adjusted to zero~~. If this occurs and the legacy contract counterparty has a direct corporate association pursuant to section 95833 with any other covered or opt-in covered entity that was eligible for allocation pursuant to sections 95891(b) ~~through (d)~~or (c) , then after the legacy contract counterparty's allowance allocation has been adjusted to zero, the entity with the direct corporate association that received allocation pursuant to section 95891(b) ~~through (d)~~or (c) shall have its allowance allocation adjusted by the remainder of the adjustment as calculated earlier in this section.

Table 9-2: Cap Adjustment Factors for Allowance Allocation

Budget Year	Cap Adjustment Factor (c) for All Other Direct Allocation	Cap Adjustment Factor (c) for Sectors with Process Emissions Greater Than 50%		
		Sector	NAICS	Activity
		Nitrogenous Fertilizer Manufacturing	325311	Nitric Acid Production
				Calcium Ammonium Nitrate Solution Production
		Cement manufacturing	327310	Cement manufacturing
		Lime manufacturing	327410	Dolime Manufacturing
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		
2021	*[Staff may propose cap adjustment factors as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*			
2022				
2023				
2024				
2025				
2026				
2027				
2028				
2029				
2030				

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

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

(a) Allocation to Individual Electrical Distribution Utilities.

(1) 2013-2020 Allocation. The allowances allocated to each electrical distribution utility from each budget year 2013 through 2020 shall be the electrical distribution utility sector allocation calculated pursuant to section 95870(d) for the budget year multiplied by the percentage allocation factors specified in Table 9-3, or the quantity of allowances in Table 9-3A. ~~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 persons other than such ratepayers.~~

(2) 2021-2026 Allocation. The number of allowances allocated to each electrical distribution utility from each budget year 2021 through 2026 shall be the amount shown in Table 9-4.

(3) Allocation in 2027 and Beyond.

[Staff may propose a methodology as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]

(b) Transfer to Utility Accounts.

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(2) Publicly Owned Electric Utilities or Electrical Cooperatives. When a publicly owned electric utility or electrical cooperative is eligible for a direct allocation, it shall inform the Executive Officer of the amounts to be placed into the accounts below:

(A) In the compliance account of an electrical generating facility operated by a publicly owned electric utility, an electrical cooperative, or a Joint Powers Agency in which the electrical distribution utility or electrical cooperative is a member and with which it has a power purchase agreement. The Executive Officer shall place this amount of allowances into the entity's allowance allocation holding account to be

transferred by the Executive Officer into the entity's compliance account pursuant to 95931(d).~~; or~~

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

(3) Publicly owned electric utilities or electrical cooperatives receiving a direct allocation must inform the Executive Officer by September 1~~, or the first business day thereafter,~~ of the accounts in which the allocations are to be placed. If an entity fails to submit its distribution preference by September 1, ARB will automatically place all directly allocated allowances for the following budget year in the entity's Limited Use Holding Account.

(c) Monetization Requirement.

~~(1) In 2012 an electrical distribution utility must offer one third of the allowances placed in its limited use holding account in 2012 for sale at the auction scheduled for 2012.~~

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

(~~A~~1) From budget years that correspond to the current calendar year; and

(~~B~~2) From budget years prior to the current calendar year.

(d) Limitations on the Use of Auction Proceeds and Allowance 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 requirements set forth in sections 95892(d)(3)-(5) and 95892(e).

(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 requirements set forth in sections 95892(d)(3)-(5) and 95892(e).

(3) Auction proceeds and allowance value 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. Allocated allowance auction proceeds may be used to reduce greenhouse gas emissions or returned to ratepayers. Any allocated allowance auction proceeds returned to ratepayers must be returned in a non-volumetric manner.

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(5) 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 AB 32 is prohibited, including use of such allowances to meet compliance obligations for electricity sold into the California Independent System Operator markets. Use of allocated allowance auction proceeds to pay for the costs of complying with MRR or the AB 32 Cost of Implementation Fee Regulation (California Code of Regulations, sections 95200-95207) is prohibited. Returning allocated allowance auction proceeds to ratepayers in a volumetric manner is prohibited.

(6) Deadline for Use of Allocated Allowance Value. The proceeds received from the sale of allowances allocated to an EDU must be spent by December 31 of the year ten years after the vintage year of the allowances. To be spent, the proceeds must not remain in any account owned or controlled by the natural gas supplier or its corporate associates. If the proceeds have not been spent within ten years, they must be returned to ratepayers in a non-volumetric manner by December 31 of the year eleven years after the vintage year of the allowances.

(e) Reporting on the Use of Auction Proceeds~~ and Allowance Value~~. No later than June 30, 2014, and each calendar year thereafter, each electrical distribution utility shall submit a report to the Executive Officer describing how any allocated allowance auction proceeds were spent during the previous calendar year.~~the disposition of any auction proceeds and allowance value received in the prior calendar year.~~ This report shall include:

(1) The monetary value of allocated allowance auction proceeds received by the electrical distribution utility from the sale of allowances from the previous calendar year's vintage , and any other allocated allowance auction proceeds not previously reported as spent pursuant to section 95892(e);

(2) How the electrical distribution utility's disposition of ~~such auction proceeds~~ any allocated allowance auction proceeds which were spent during the previous calendar year complies with the requirements of this section and the requirements of California Health and Safety Code sections 38500 et seq.;

~~(3) The monetary value of allowances received by the electrical distribution utility which were deposited directly into electrical generating facility compliance accounts. The electrical distribution utility shall calculate the value of these allowances based on the average market clearing price of the four quarterly auctions held in the same calendar year that the allowances are allocated; and~~

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

(3) In the report due by June 30, 2018 only, for amounts spent by to December 31, 2016, the amount of allocated allowance auction proceeds not previously reported as spent pursuant to section 95892(e) or not optionally reported as spent in prior year's reports.

Table 9-3: Annual Percentage of Total Electric Sector Allocation ~~Allocated to~~for Each Electrical Distribution Utility from 2013 to 2020

Utility Name	Utility Type[1] ~~(1)~~	Annual ~~%~~Percentage of Total Electric Sector Allocation ~~to~~for Utility							
		2013	2014	2015	2016	2017	2018	2019	2020
PG&E	IOU	26.02909%	26.34522%	26.01510%	~~26.21500%~~ 26.22211%	~~27.21147%~~ 27.21894%	~~26.91164%~~ 26.91925%	~~27.21091%~~ 27.21873%	~~27.22981%~~ 27.23794%
LADWP	POU	14.18332%	14.18925%	14.00829%	14.43473%	14.91438%	15.28169%	14.96326%	14.04837%
SCE	IOU	34.01733%	33.58115%	34.04480%	32.69831%	30.32124%	29.84140%	29.46661%	29.71342%
SDG&E	IOU	7.21940%	6.96087%	6.96792%	7.08933%	7.29010%	7.24815%	7.28721%	7.38964%
SMUD	POU	3.28172%	3.28283%	3.21338%	3.30147%	3.44817%	3.57259%	3.70519%	3.83415%
City of Anaheim	POU	2.07532%	2.12074%	2.11355%	2.19270%	2.20963%	2.27089%	2.30639%	2.35434%
City of Azusa (Azusa Light & Water)	POU	0.18055%	0.18489%	0.18858%	0.19402%	0.20119%	0.20555%	0.21082%	0.21761%
City of Banning	POU	0.09772%	0.10169%	0.10327%	0.10646%	0.11074%	0.11334%	0.11631%	0.12050%
City of Burbank	POU	0.65354%	0.66027%	0.66532%	0.67128%	0.68296%	0.68319%	0.68787%	0.69354%
City of Cerritos	POU	0.01827%	0.01887%	0.01945%	0.02004%	0.02090%	0.02128%	0.02186%	0.02240%
City of Colton	POU	0.24485%	0.25185%	0.25876%	0.26535%	0.27437%	0.27891%	0.28559%	0.29302%
City of Glendale (Water and Power)	POU	0.65850%	0.66238%	0.66100%	0.67150%	0.69049%	0.69592%	0.68391%	0.70039%

Utility Name	Utility Type[1] ~~(1)~~	Annual %Percentage of Total Electric Sector Allocation ~~to~~for Utility							
		2013	2014	2015	2016	2017	2018	2019	2020
City of Pasadena (Pasadena Water and Power)	POU	0.80141%	0.80710%	0.80920%	0.82057%	0.83784%	0.86949%	0.87876%	0.89190%
City of Riverside	POU	1.12865%	1.13669%	1.13121%	1.17999%	1.20482%	1.24829%	1.27103%	1.30954%
City of Vernon	POU	0.41385%	0.42014%	0.42987%	0.43256%	0.44276%	0.44174%	0.42961%	0.42477%
Imperial Irrigation District	POU	1.77241%	1.81456%	1.82936%	1.90056%	1.97281%	2.00476%	2.05350%	2.11597%
Modesto ID	POU	1.26426%	1.28335%	1.27289%	1.30523%	1.34388%	1.35267%	1.36746%	1.40098%
City of Alameda	POU	0.05321%	0.05746%	0.05675%	0.06140%	0.06253%	0.07244%	0.07403%	0.07561%
City of Biggs	POU	0.00680%	0.00729%	0.00674%	0.00681%	0.00733%	0.00711%	0.00710%	0.00721%
City of Gridley	POU	0.01517%	0.01551%	0.01571%	0.01601%	0.01650%	0.01657%	0.01654%	0.01666%
City of Healdsburg	POU	0.03290%	0.03271%	0.03126%	0.03325%	0.03567%	0.03777%	0.03889%	0.04195%
City of Lodi	POU	0.16616%	0.16780%	0.16385%	0.16740%	0.17419%	0.17518%	0.17494%	0.17995%
City of Lompoc	POU	0.04956%	0.04985%	0.04887%	0.05136%	0.05400%	0.05438%	0.05442%	0.05635%
City of Palo Alto	POU	0.35530%	0.35717%	0.34944%	0.35460%	0.36639%	0.36628%	0.36537%	0.37403%
City of Redding	POU	0.44750%	0.50262%	0.50106%	0.51053%	0.52983%	0.54582%	0.54607%	0.55913%
City of Roseville	POU	0.48831%	0.50123%	0.50861%	0.53058%	0.55609%	0.54800%	0.54623%	0.55111%
City of Ukiah	POU	0.03536%	0.03503%	0.03265%	0.03550%	0.03905%	0.04202%	0.04340%	0.04460%

Utility Name	Utility Type[1] ~~(1)~~	Annual ~~%~~Percentage of Total Electric Sector Allocation ~~to~~for Utility							
		2013	2014	2015	2016	2017	2018	2019	2020
Plumas-Sierra Rural Electric Cooperation	COOP	0.06414%	0.06559%	0.06670%	0.06763%	0.06929%	0.06923%	0.06894%	0.06892%
Port of Oakland	POU	0.03277%	0.03345%	0.03411%	0.03438%	0.03491%	0.03467%	0.03451%	0.03432%
Silicon Valley Power	POU	1.13125%	1.14819%	1.13895%	1.20823%	1.29624%	1.33330%	1.33645%	1.38438%
Truckee-Donner Public Utility District	POU	0.12089%	0.12415%	0.12749%	0.13067%	0.13480%	0.13722%	0.14051%	0.14406%
Turlock Irrigation District	POU	0.94012%	0.97157%	0.98772%	1.01291%	1.05443%	1.06803%	1.06840%	1.08659%
Anza Electric Cooperative, Inc.	COOP	0.02028%	0.02102%	0.04803%	0.04922%	0.05093%	0.05159%	0.05284%	0.05386%
Golden State Water Company	IOU	0.00006%	0.00006%	0.00006%	0.00007%	0.00007%	0.00007%	0.00007%	0.00007%
City of Needles	POU	0.01027%	0.01086%	0.01148%	0.01183%	0.01248%	0.01250%	0.01284%	0.01316%
City of Rancho Cucamonga	POU	0.02559%	0.02653%	0.02753%	0.02822%	0.02928%	0.02961%	0.03034%	0.03104%
City and County of San Francisco	POU	0.09929%	0.11620%	0.13435%	0.15375%	0.17430%	0.19643%	0.22009%	0.24157%
City of Shasta Lake (Shasta Dam Area Public Utility District)	POU	0.05182%	0.05360%	0.05499%	See Table 9-3A for absolute value of allocation				
Lassen Municipal Utility District	POU	0.05079%	0.05279%	0.05492%	0.05638%	0.05866%	0.05927%	0.06075%	0.06219%
Merced Irrigation District	POU	0.17105%	0.17687%	0.18268%	0.18770%	0.19525%	0.19791%	0.20285%	0.20835%
Moreno Valley Utilities	POU	0.03929%	0.04073%	0.04227%	0.04334%	0.04495%	0.04547%	0.04657%	0.04765%
Kirkwood Meadows Public Utility District	POU	0.00306%	0.00317%	0.00329%	0.00337%	0.00350%	0.00354%	0.00362%	0.00369%

Utility Name	Utility Type[1] ~~(1)~~	Annual ~~%~~Percentage of Total Electric Sector Allocation ~~to~~for Utility							
		2013	2014	2015	2016	2017	2018	2019	2020
Port of Stockton	POU	0.00538%	0.00558%	0.00579%	0.00594%	0.00616%	0.00623%	0.00638%	0.00648%
Power and Water Resource Pooling Authority	POU	0.06650%	0.06899%	0.07018%	0.07365%	0.07980%	0.08118%	0.08378%	0.08727%
California Pacific Electric Company	IOU	0.22625%	0.23453%	0.24340%	0.24957%	0.25888%	0.26194%	0.26839%	0.27259%
Surprise Valley Electrical Corporation	COOP	0.05381%	0.05578%	0.03167%	0.03251%	0.03384%	0.03419%	0.03505%	0.03541%
Trinity Public Utility District	POU	0.00000%	0.00000%	0.00000%	0.00000%	0.00000%	0.00000%	0.00000%	0.00000%
WAPA	POU	0.33271%	0.35496%	0.37846%	0.39096%	0.41612%	0.41522%	0.42716%	0.43040%
Valley Electric Association, Inc.	COOP	0.00012%	0.00012%	0.00013%	0.00013%	0.00014%	0.00014%	0.00014%	0.00014%
Victorville Municipal	POU	0.02385%	0.02472%	0.02566%	0.02631%	0.02729%	0.02761%	0.02829%	0.02873%
Hercules	POU	0.00656%	0.00674%	0.00687%	~~0.00711%~~	~~0.00747%~~	~~0.00761%~~	~~0.00782%~~	~~0.00813%~~
City of Industry	POU	0.00910%	0.00945%	0.00982%	0.01008%	0.01047%	0.01058%	0.01085%	0.01101%
Corona	POU	0.06050%	0.06248%	0.06438%	0.06621%	0.06897%	0.06999%	0.07176%	0.07331%
Pittsburg Power (Island)	POU	0.00407%	0.00429%	0.00452%	0.00466%	0.00492%	0.00494%	0.00507%	0.00513%
Eastside	POU	0.00487%	0.00522%	0.00558%	0.00577%	0.00616%	0.00613%	0.00631%	0.00635%
PacifiCorp	IOU	0.75511%	0.77388%	0.79208%	0.81600%	0.84143%	0.86742%	0.89439%	0.92339%

~~(1)~~[1] IOU = Investor Owned Electric Utility, POU = Publicly Owned Electric Utility, COOP = Rural Electric Cooperative

Table 9-3A: Quantity of Allowances Allocated to City of Shasta Lake (Shasta Dam Area Public Utility~~Utiltiy~~ District)

Utility Name	Utility Type[1] ~~(1)~~	Annual Allowances to Utility				
		2016	2017	2018	2019	2020
City of Shasta Lake (Shasta Dam Area Public Utility District)	POU	129,197	72,923	72,523	72,814	73,697

[1] POU = Publicly Owned Electric Utility

Table 9-4: Annual Allowances Allocated to Each Electrical Distribution Utility from 2021 to 2026

Utility Name	EDU Type[1]	Annual Allocation to Each Electrical Distribution Utility					
		2021	2022	2023	2024	2025	2026
Alameda Municipal Power	POU	*[Staff may propose post-2020 allocation as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*					
Anza Electric Cooperative, Inc.	COOP						
Azusa Light and Water	POU						
Bear Valley Electric Service (BVES)	IOU						
Biggs Municipal Utilities	POU						
Burbank Water and Power	POU						
City and County of San Francisco, Public Utilities Commission	POU						
City of Anaheim, Public Utilities Department, Anaheim City Hall West	POU						
City of Banning Electric Department	POU						
City of Cerritos	POU						
City of Colton - EPE	POU						
City of Corona Dept. of Water & Power - EPE	POU						

Utility Name	EDU Type[1]	Annual Allocation to Each Electrical Distribution Utility					
		2021	2022	2023	2024	2025	2026
City of Industry	POU	*[Staff may propose post-2020 allocation as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*					
City of Lompoc	POU						
City of Needles	POU						
City of Palo Alto - Electric Power Entity	POU						
City of Riverside Public Utilities	POU						
City of Shasta Lake - Electric	POU						
City of Ukiah, Electric Utilities Division	POU						
City of Vernon, Vernon Gas & Electric	POU						
Eastside Power Authority	POU						
Glendale Water & Power	POU						
Gridley Electric Utility	POU						
Healdsburg Electric Dept.	POU						
Imperial Irrigation District (IID)	POU						
Kirkwood Meadows PUD Powerhouse	IOU						
Lassen Municipal Utility District	POU						
Lathrop Irrigation District	POU						
Liberty Utilities (CalPeco Electric) LLC	POU						
Lodi Electric Utility	POU						
Los Angeles Department of Water & Power (LADWP)	POU						
Merced Irrigation District (MeID)	POU						
Modesto Irrigation District (MID)	POU						
Moreno Valley Utility (MVU)	POU						
Pacific Gas and Electric Company (PG&E) - Electric Power Entity	IOU						
PacifiCorp	IOU						

Utility Name	EDU Type[1]	Annual Allocation to Each Electrical Distribution Utility					
		2021	2022	2023	2024	2025	2026
Pasadena Water and Power, 91101	POU	*[Staff may propose post-2020 allocation as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]*					
Pittsburg Power Company	POU						
Plumas-Sierra REC	COOP						
Port of Oakland	POU						
Port of Stockton, 95203	POU						
Power and Water Resources Pooling Authority (PWRPA)	POU						
Rancho Cucamonga Municipal Utility	POU						
Redding Electric Utility	POU						
Roseville Electric	POU						
Sacramento Municipal Utility District (SMUD) - Electric Power Entity	POU						
San Diego Gas & Electric (SDG&E) - Electric Power Entity	IOU						
Shelter Cove	POU						
Silicon Valley Power (SVP), City of Santa Clara	POU						
Southern California Edison (SCE) - Electric Power Entity	IOU						
Surprise Valley Electrification Corp.	COOP						
Truckee Donner Public Utilities District	POU						
Turlock Irrigation District (TID)	POU						
Valley Electric Association, Inc.	COOP						
Victorville Municipal Utility Services - EPE	POU						
WAPA - Sierra Nevada Region	POU						

[1] IOU = Investor Owned Electric Utility, POU = Publicly Owned Electric Utility, COOP = Rural Electric Cooperative

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. Allocation to Natural Gas Suppliers for Protection of Natural Gas Ratepayers.

(a) Allocation to Individual Natural Gas Suppliers. For each budget year, each natural gas supplier's allocation will be calculated as follows. Any allowances allocated to natural gas suppliers must be used exclusively for the benefit of retail ratepayers of each such natural gas supplier, consistent with the goals of AB 32, and may not be used for the benefit of entities or persons other than such ratepayers.

$$\cancel{A_{S,t} = E_{2011} * c_{a,t}}$$
$$\underline{A_{S,t} = E_{2011} * c_t}$$

Where:

"$A_{S,t}$" is the amount of California GHG allowances directly allocated to the natural gas supplier "S" from budget year "t";

"E_{2011}" is the emissions for natural gas supplier "S" for data year 2011, as calculated using the compliance obligation calculation methods under section 95852(c); and

"$c_{\cancel{a,}t}$" is the adjustment factor for natural gas suppliers for budget year "t" to account for cap decline as specified in Table 9-2~~; and~~.

(b) Transfer to Natural Gas Supplier Accounts.

(1) When a natural gas supplier as defined in section 95811(c) is eligible for a direct allocation, it shall inform the Executive Officer by September 1, or the first business day thereafter of the amount of allowances to be placed into its Compliance and Limited Use Holding Account with the following constraints. If an entity fails to submit its distribution preference by this deadline, ARB will automatically place all directly allocated allowances for the following budget year in the entity's Limited Use Holding Account:

(A) The quantity of allowances placed into the Limited Use Holding Account will equal at least the amount of allowances provided in

section 95893(a) multiplied by the applicable percentage in Table 9-~~4~~5 or Table 9-6, rounded down to the nearest whole allowance.

(B) The remaining allowances from the allowances allocated in section 95893(a) which are not placed into the Limited Use Holding Account will be placed into the entity's allowance allocation holding account to be transferred by the Executive Officer into the entity's compliance account pursuant to 95931(d) ~~Compliance Account.~~

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

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(3) Auction proceeds and allowance value obtained by a natural gas supplier shall be used exclusively for the benefit of retail ratepayers of each natural gas supplier, consistent with the goals of AB 32, and may not be used for the benefit of entities or persons other than such ratepayers. Allocated allowance auction proceeds may be used to reduce greenhouse gas emissions or returned to ratepayers. Any ~~revenue~~ allocated allowance auction proceeds returned to ratepayers must be done in a non-volumetric manner.

***

(5) Prohibited Use of Allocated Allowance Value. Use of the value of any allowance allocated to a natural gas supplier, other than for the benefit of retail ratepayers consistent with the goals of AB 32, is prohibited. Use of allocated allowance auction proceeds to pay for the costs of complying with MRR or the AB 32 Cost of Implementation Fee Regulation (California Code of Regulations, sections 95200-95207) is prohibited. Returning allocated allowance auction proceeds to ratepayers in a volumetric manner is prohibited.

(6) 95893(d)(6) Deadline for Use of Allocated Allowance Value. The proceeds received from the sale of allowances allocated to a natural gas supplier must be spent by December 31 of the year ten years after the vintage year of the allowances. To be spent, the proceeds must not remain in any account

owned or controlled by the natural gas supplier or its corporate associates. If the proceeds have not been spent within ten years, they must be returned to ratepayers in a non-volumetric manner by December 31 of the year eleven years after the vintage year of the allowances.

(e) Reporting on the Use of Auction Proceeds ~~and Allowance Value~~. No later than June 30, 2016, and each calendar year thereafter, each natural gas supplier shall submit a report to the Executive Officer describing how any allocated allowance auction proceeds were spent during the previous calendar year.~~the disposition of any auction proceeds and allowance value from allowances from the previous budget year~~. This report shall include:

(1) The monetary value of auction proceeds received by the natural gas supplier from the sale of allowances from the previous calendar year's vintage, and any other allocated allowance auction proceeds not previously reported as spent pursuant to section 95893(e)~~. The natural gas supplier shall calculate the value of these allowances based on the average market clearing price of the four Current Auctions held in the same budget year from which the allowances are allocated~~;

(2) How the natural gas supplier's disposition of ~~such auction proceeds~~ any allocated allowance auction proceeds which were spent during the previous calendar year complies with the requirements of this section and the requirements of California Health and Safety Code sections 38500 et seq.;

~~(3) The monetary value of allowances received by the natural gas supplier which were deposited directly into its compliance account. The natural gas supplier shall calculate the value of these allowances based on the average market clearing price of the four Current Auctions held in the same budget year from which the allowances are allocated; and~~

~~(4) How the natural gas supplier's disposition of the monetary value of allowances, including those 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.~~

(3) In the report due by June 30, 2018 only, for amounts spent prior to December 31, 2016, the amount of allocated allowance auction proceeds not previously reported as spent pursuant to section 95892(e) or not optionally reported as spent in prior year's reports.

Table 9-4~~5~~: Minimum Annual Percentage Consignment Requirements for Natural Gas Utilities ~~by Year~~for 2015-2020

~~Compliance Period~~	~~2~~			~~3~~		
Year	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**
Minimum Percentage Consigned	25%	30%	35%	40%	45%	50%

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

Year	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029**	**2030**
Minimum Percentage Consigned	*[Staff may propose post-2020 consignment requirements as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment 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.

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

(a) Demonstration of Eligibility. Opt-in covered entities are not eligible for transition assistance due to legacy contract emissions. To be eligible to receive a direct allocation of allowances under this section, the primary or alternate account representative of a legacy contract generator with an industrial counterparty ~~or legacy contract generator without an industrial counterparty~~ shall submit the following in writing via certified mail to the Executive Officer by ~~September 2~~June 1 of each year as applicable:

(1) A letter to ARB stating covered entity's name and ARB ID, identification of legacy contract counterparty, and statement requesting transition assistance

for the previous data year's legacy contract emissions.

(A) Previous data year's legacy contract emissions, pursuant to section 95894(c).~~; and~~

~~(B) 2012 data year's legacy contract emissions, pursuant to section 95894(d).~~

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(3) An attestation under penalty of perjury under the laws of the State of California that:

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(B) The legacy contract was originally executed prior to September 1, 2006, remains in effect, and has not been amended since that date to change the terms governing the price or amount of electricity or legacy contract qualified thermal output sold, the GHG costs, or the expiration date; and

(C) The operator of the legacy contract generator with an industrial counterparty ~~or the legacy contract generator without an industrial counterparty~~ made a good faith effort, but failed~~was unable~~ to renegotiate the legacy contract with the counterparty to address recovery of the costs of compliance with this regulation. The renegotiation effort began at least 60 days, but no earlier than a year, before the date of this attestation.

***

(b) Determination of Eligibility. Upon receipt of the information required by paragraph (a) of this section, the Executive Officer shall determine whether the party submitting such information has demonstrated that it is eligible to receive a direct allocation of allowances pursuant to this section and shall notify that party by October 10 each year if it is eligible to receive an allocation calculated pursuant to section 95894(c) ~~or 95894(d)~~ for the following compliance year.

(c) Allocation to Legacy Contract Generators with an Industrial Counterparty. If the counterparty (or entity in a direct corporate association with the counterparty) is a covered entity or opt-in covered entity that is in a sector listed in Table 8-1 or

Table 8-3, as applicable according to compliance period, the following formulae apply based on the type of generation facility:

(1) For stand-alone generation facilities that are legacy contract generators with an industrial counterparty, the following equations apply:

$$\cancel{TrueUp_{2015} = \left(EEm_{lc} * AF_{lcc,2013} * c_{2013}\right) + \left(EEm_{lc} * AF_{lcc,2014} * c_{2014}\right) + \left(EEm_{lc} * AF_{lcc,2015} * c_{2015}\right)}$$

~~Where~~

~~"$TrueUp_{2015}$" is the amount of true up allowances allocated from budget year 2015 and allowed to be used for compliance for budget years 2013 and 2014 and subsequent years, pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D);~~

~~"$EEm_{lc,}$" is the emissions reported, in $MTCO_2e$, associated with electricity sold under the legacy contract in 2013;~~

~~"$AF_{lcc,2013,}$" "$AF_{lcc,2014,}$" and "$AF_{lcc,2015}$" are the assistance factors associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget years 2013, 2014, and 2015, respectively; and~~

~~"$c_{2013,}$" "$c_{2014,}$" and "$c_{2015,}$" are the cap adjustment factors for the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget years 2013, 2014, and 2015, respectively, as specified in Table 9-2.~~

~~From budget year 2016 forward, the following equation applies:~~

$$A_t = \left(EEm_{lc,t-2} * c_{a,t} * AF_{lcc,t}\right) + TrueUp_t$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to the legacy contract generator with an industrial counterparty for legacy contract emissions from budget year "t". This value shall only be calculated if the entity meets the eligibility requirements, pursuant to section ~~9489~~95894(a) and 95894(b), and is covered under the Cap-and-Trade Program during ~~the second compliance period~~ budget year "t";

"$EEm_{lc,t-2,}$" is the emissions reported, in $MTCO_2e$, associated with electricity sold under the legacy contract in the data years two years before year "t";

"$c_{a,t}$" is the cap adjustment factor for the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget year "t". The subscript "a" designates the activity conducted by the legacy contract counterparty or the entity in a direct corporate association with the legacy contract counterparty.

"$AF_{lcc,t}$" is the assistance factor associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget years "t"; and

$$TrueUp_t = \left(EEm_{lc,t-2} * c_{a,t-2} * AF_{lcc,t-2}\right) - A_{t-2,no\ trueup}$$

Where:

"$TrueUp_t$" is the amount of true-up allowances allocated to account for the emissions reported for data year "t" and allowed to be used for compliance for the budget year two years prior to year "t" and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D);

"$EEm_{lc,t-2,}$" is the emissions reported, in $MTCO_2e$, associated with electricity sold under the legacy contract in the data years two years before year "t";

"$c_{a,t-2}$" is the cap adjustment factor for the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for the year two years prior to year "t". The subscript "a" designates the activity conducted by the legacy contract counterparty or the entity in a direct corporate association with the legacy contract counterparty;

"$AF_{lcc,t-2}$" is the assistance factor associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for two years before budget year "t"; and

"$A_{t-2,no\ trueup}$" is the amount of California GHG allowances directly allocated to the legacy contract generator with an industrial counterparty for legacy contract emissions from the budget year two years prior to year "t," not including the true-up for that budget year.

(2) For legacy contract generators with an industrial counterparty, subject to 95894(c) but not covered in 95894(c)(1), the following equations apply:

$$\cancel{TrueUp_{2015} = \left((Q_{lc} * B_s + E_{lc} * B_e) * AF_{lcc,2013} * c_{2013}\right) + ((Q_{lc} * B_s * E_{lc} * B_e) * AF_{lcc,2014} * c_{2014}) + ((Q_{lc} * B_s + E_{lc} * B_e) \times AF_{lcc,2015} * c_{2015})}$$

~~Where:~~

~~"$TrueUp_{2015}$" is the amount of true-up allowances allocated from budget year 2015 and allowed to be used for compliance for budget years 2013 and 2014 and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D);~~

~~"$Q_{lc,}$" is the legacy contract qualified thermal output in MMBtu sold under a legacy contract in data year 2013, as reported to MRR;~~

~~"E_{lc}" is the electricity, in MWh, sold under the legacy contract in data year 2013;~~

~~"B_e" is the emissions efficiency benchmark per unit of electricity sold or provided to off-site end users, 0.431 California GHG Allowances/MWh;~~

~~"B_s" is the emissions efficiency benchmark per unit of legacy contract qualified thermal output, 0.06244 California GHG Allowances/MMBtu thermal;~~

~~"$AF_{lcc,2013}$," "$AF_{lcc,2014}$," and "$AF_{lcc,2015}$" are the assistance factors associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget years 2013, 2014, and 2015, respectively; and~~

~~"c_{2013}," "c_{2014}," and "c_{2015}," are the cap adjustment factors for the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget years 2013, 2014, and 2015, respectively, as specified in Table 9-2.~~

~~From budget year 2016 forward, the following formula applies:~~

$$A_t = ((Q_{lc,t-2} * B_s + E_{lc,t-2} * B_e) * AF_{lcc,t} * c_t) + TrueUp_t$$

Where:

"A_t" is the amount of California GHG allowances directly allocated to the legacy contract generator with an industrial counterparty for legacy contract emissions from budget year "t". This value shall only be calculated if the entity meets the eligibility requirements, pursuant to section 94894(a), and 95894(b), and is covered under the Cap-and-Trade Program during ~~the second compliance period~~ budget year "t";

"$Q_{lc,t-2}$" is the legacy contract qualified thermal output in MMBtu sold under a legacy contract in the data year two years prior to year "t," as reported under MRR;

"$E_{lc,t-2}$" is the electricity, in MWh, sold under the legacy contract in the data year two years prior to year "t," as reported under MRR;

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

"B_s" is the emissions efficiency benchmark per unit of legacy contract qualified thermal output, 0.06244 California GHG Allowances/MMBtu thermal;

"$AF_{lcc,t}$" is the assistance factor associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget year "t";

"c_t" is the cap adjustment factor for the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty for budget year "t" as specified in ~~t~~Table 9-2; and

$$TrueUp_t = ((Q_{lc,t-2} * B_s + E_{lc,t-2} * B_e) * AF_{lcc,t-2} * c_{t-2}) - A_{t-2,no\ trueup}$$

Where:

"$TrueUp_t$" is the amount of true-up allowances allocated to account for the emissions reported for data year "t" and allowed to be used for compliance for the budget year two years prior to year "t" and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D);

"$Q_{lc,-t-2}$" is the legacy contract qualified thermal output in MMBtu sold under a legacy contract in the data year two years prior to year "t," as reported under MRR;

"B_s" is the emissions efficiency benchmark per unit of legacy contract qualified thermal output, 0.06244 California GHG Allowances/MMBtu thermal;

"$E_{lc,t-2}$" is the electricity, in MWh, sold under the legacy contract in the data year two years prior to year "t," as reported under MRR;

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

"$AF_{lcc,t-2}$" is the assistance factor associated with the legacy contract counterparty or entity in a direct corporate association with the legacy contract counterparty in the budget year two years prior to year "t";

"c_{t-2}" is the is the cap adjustment factor for the budget year two years prior to year "t" as specified in Table 9-2; and

"$A_{t-2,no\ trueup}$" is the amount of California GHG allowances directly allocated to the legacy contract generator with an industrial counterparty for legacy contract emissions from the budget year two years prior to year "t," not including the true-up for that budget year~~;~~.

~~(d) Allocation to Legacy Contract Generators without an Industrial Counterparty. For legacy contracts not covered in 95894(c), the following formulae shall apply:~~

~~(1) For stand-alone generation facilities that are legacy contract generators without an industrial counterparty:~~

$$\cancel{TrueUp_{2015} = (EEm_{lc} * c_{2013}) + (EEm_{lc} * c_{2014}) + (EEm_{lc} * c_{2015})}$$

~~Where:~~

~~"TrueUp$_{2015}$" is the amount of true up allowances allocated from budget year 2015 and allowed to be used for compliance for budget years 2013 and 2014~~

~~and subsequent years, pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D);~~

~~"$EEm_{lc,}$" is the emissions reported, in $MTCO_2e$, associated with electricity sold under the legacy contract in 2012; and~~

~~"$c_{2013,}$" "$c_{2014,}$" and "$c_{2015,}$" are the cap adjustment factors for budget years 2013, 2014, and 2015, respectively, as specified under the "Cap Adjustment Factor (c) for All Other Direct Allocation" column in Table 9-2.~~

~~For budget years 2016 and 2017 the following equation applies:~~

$$\cancel{A_t = (EEm_{lc} * c_t)}$$

~~Where:~~

~~"A_t" is the amount of California GHG allowances directly allocated to the legacy contract generator without an industrial counterparty for legacy contract emissions from budget year "t." This value shall only be calculated if the entity meets the eligibility requirements, pursuant to section 95894(a) and 95894(b), and is covered under the Cap-and-Trade Program during the second compliance period.~~

~~$EEm_{lc,}$" is the emissions reported, in $MTCO_2e$, associated with electricity sold under the legacy contract in 2012; and~~

~~"c_t" is the adjustment factor for budget year "t," as specified under the "Cap Adjustment Factor (c) for All Other Direct Allocation" column in Table 9-2.~~

~~(2) For legacy contract generators without an industrial counterparty not covered in 95894(c) or 95894(d)(1):~~

$$\cancel{TrueUp_{2015} = \left((Q_{lc} * B_s + E_{lc} * B_e) * c_{2013}\right) + ((Q_{lc} * B_s + E_{lc} * B_e) * c_{2014}) + ((Q_{lc} * B_s + E_{lc} * B_e) * c_{2015})}$$

~~Where:~~

~~"$TrueUp_{2015}$" is the amount of true-up allowances allocated from budget year 2015 and allowed to be used for compliance for budget years 2013 and 2014 and subsequent years pursuant to sections 95856(h)(1)(D) and 95856(h)(2)(D);~~

~~"$Q_{lc,}$" is the legacy contract qualified thermal output in MMBtu sold under a legacy contract in data year 2012, as reported to MRR;~~

~~"E_{lc}" is the electricity, in MWh, sold under the legacy contract in data year 2012;~~

~~"B_e" is the emissions efficiency benchmark per unit of electricity sold or provided to off-site end users, 0.431 California GHG Allowances/MWh;~~

~~"B_s" is the emissions efficiency benchmark per unit of legacy contract qualified thermal output, 0.06244 California GHG Allowances/MMBtu thermal; and~~

~~"$c_{2013,}$" "$c_{2014,}$" and "c_{2015}" are the cap adjustment factors for budget years 2013, 2014, and 2015, respectively, as specified under the "Cap Adjustment Factor (c) for All Other Direct Allocation" column in table 9-2.~~

~~For budget years 2016 and 2017, the following equation applies:~~

$$\cancel{A_t = \left((Q_{lc} * B_s + E_{lc} * B_e) * c_t\right)}$$

~~Where:~~

~~"A_t" is the amount of California GHG allowances directly allocated to the legacy contract generator without an industrial counterparty, for legacy~~

~~contract emissions from budget year "t." This value shall only be calculated if the entity meets the eligibility requirements, pursuant to section 95894(a) and 95894(b), and is covered under the Cap-and-Trade Program during the second compliance period;~~

~~"$Q_{lc,}$" is the legacy contract qualified thermal output in MMBtu sold under a legacy contract in data year 2012, as reported to MRR;~~

~~"E_{lc}" is the electricity, in MWh, sold under the legacy contract in data year 2012;~~

~~"B_e" is the emissions efficiency benchmark per unit of electricity sold or provided to off-site end users, 0.431 California GHG Allowances/MWh;~~

~~"B_s" is the emissions efficiency benchmark per unit of legacy contract qualified thermal output, 0.06244 California GHG Allowances/MMBtu thermal; and~~

~~"c_t" is the cap adjustment factor for budget year "t" as specified under the "Cap Adjustment Factor (c) for All Other Direct Allocation" column in table 9-2.~~

(~~e~~d) Data Sources. In determining the appropriate values for section 95894(c) ~~and 95894(d)~~, the Executive Officer may employ all available data reported to ARB under MRR and all other relevant data, including invoices, that demonstrate the amount of electricity and legacy contract qualified thermal output sold or provided for off-site use does not include a carbon cost in the budget year for which it is seeking an allocation. If necessary, the Executive Officer will solicit additional data to establish a representative allocation. The operator of the legacy contract generator with an industrial counterparty ~~and the operator of a legacy contract generator without an industrial counterparty,~~ must provide the additional data upon request by the Executive Officer.

(~~f~~e) Contract Expiration or Generator Closure. Once a legacy contract expires or the legacy contract generator with an industrial counterparty ~~or legacy contract~~

~~generator without an industrial counterparty~~ closes operations, the generator will no longer be eligible for free allocation pursuant to 95890(e), and allocation will be prorated for the time in which the contract was eligible.

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

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

(a) Allocation to Public Wholesale Water Agencies. The allowances allocated to each public wholesale water agency from each budget year from 2015 through 2020 shall be the amount specified in Table 9-~~5~~7. Allowance allocation shall be transferred to the annual allocation holding account for each public wholesale water agency. The Executive Officer shall transfer allowances in the annual allocation holding account to the compliance account on January 1 of the vintage year of the allowances.

(b) The allowances allocated to each public wholesale water agency from each budget year from 2021 and subsequent years shall be calculated as follows:

[Staff may propose post-2020 allocation as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.]

Table 9-~~5~~7: Allocation to Each Public Wholesale Water Agency

Agency Name	Annual Allocation					
	2015	2016	2017	2018	2019	2020
Metropolitan Water District	182,499	133,065	57,180	42,323	41,502	40,723

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

§ 95910. Auction of California GHG Allowances.

(a) Timing of the Allowance Auctions.

~~(1) In 2012, an auction will held on November 14.~~

~~(2) Beginning in 2013 and through 2014, the auctions shall be conducted on the twelfth business day in California or a jurisdiction operating an External GHG ETS to which California has linked pursuant to subarticle 12 of the second month of each calendar quarter.~~

~~(3) Beginning in 2015, auctions~~ Auctions shall be conducted on the schedule pursuant to Appendix C. The schedule may be adjusted by a maximum of 4 days from the dates listed in Appendix C.

(b) ~~General Requirements.~~

~~(1) Allowances allocated to the Auction Holding Account pursuant to section 95870(b)(1)-(2) and (i) will be designated to specific auctions pursuant to section 95910(c).~~

~~(2)~~ An allowance may be designated for auction prior to or after its vintage year.

(c) Allowances from future vintages will be auctioned separately from allowances from current and previous vintages each quarter.

(1) Auction of Allowances from the Current and Previous Budget Years.

(A) This auction will be known as the Current Auction.

(B) ~~Beginning in 2013, one~~ One quarter of the allowances allocated for auction from the current calendar year's budget ~~and the allowances designated pursuant to Section 95911(f)(3)(D)~~ will be designated for sale at each Current Auction.

(C) The Current Auction may~~will~~ include allowances consigned to auction pursuant to section 95910(d) that have a vintage equal or prior to the current budget year.

(D) ~~The Current Auction may include a~~Allowances from the current and previous budget years which remained unsold at previous auctions and which are designated for auction pursuant to section 95911(f)(3).

(2) Auction of Allowances from Future Budget Years.

(A) This auction will be known as the Advance Auction.

(B) ~~At the one Advance Auction taking place in 2012, the Executive Officer will designate for sale all of the allowances allocated for Advance Auction from the 2015 budget.~~

~~(C) Beginning in 2013, one~~One quarter of the allowances allocated for Advance Auction from the budget year three years subsequent to the current calendar year will be designated for sale at each Advance Auction.

(C)~~(D)~~ The Advance Auction ~~will~~may include allowances which were returned to the Auction Holding Account following an Advance Auction which resulted in unsold allowances, and which are designated for auction pursuant to section 95911(f)(3).

(d) Auction of Consigned Allowances.

(1) An entity may consign allowances to the Executive Officer for sale at the quarterly auctions only from a limited use holding account.

(2) When the Executive Officer withdraws compliance instruments from accounts closed pursuant to section 95835~~1(c)~~, from accounts containing allowances in excess of the holding limit pursuant to section 95920(b)(5), or from accounts suspended or revoked pursuant to section 95921(g)(3):

(A) Allowances shall be consigned to the next Current Auction ~~auction~~ if the allowance vintage is equal to or prior to the current budget year;

(B) If, after review, the Executive Officer determines the withdrawn ARB offset credits, or offset credits issued from a GHG ETS to which California has linked pursuant to subarticle 12, are valid, the Executive Officer will retire them and consign~~, withdraw~~ a similar number of current budget year allowances from the Auction Holding Account~~, and consign those allowances~~ to the next Current Auction~~auction~~ in place of the retired ARB offset credits.

(C) The Executive Officer will retire any withdrawn allowances issued by ARB or by a GHG ETS to which California has linked pursuant to subarticle 12 that have no vintage, offer a similar number of current budget year vintage allowances from the Auction Holding Account, and

consign those allowances to the next Current Auction in place of the retired allowances that have no vintage.

(D) The Executive Officer will retain in the Auction Holding Account any withdrawn allowances that have a vintage that is later than the current budget year, offer a similar number of current budget year vintage allowances from the Auction Holding Account, and consign those allowances to the next Current Auction in place of the retained future vintage allowances.

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

(4) Deadline for Consignment.

~~(A) For the auction 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 the auction.~~

~~(B) Beginning in 2013 and through 2014, allowances consigned to auction through a transfer to the Auction Holding Account at least 75 days prior to the regular quarterly auction will be offered for sale at that auction.~~

~~(C) Beginning in 2015, allowances~~ Allowances designated for consignment pursuant to sections 95892(c) and 95893(c) must be transferred to the Auction Holding Account at least 75 days before the auction as scheduled in Appendix C.

(e) Auction of Allowances Used to Fulfill an Untimely Surrender Obligation. When the Executive Officer transfers compliance instruments used to fulfill an untimely surrender obligation to the Auction Holding Account pursuant to section 95857(d):

(1) Allowances with a vintage year corresponding to the current or previous budget years will be designated to the Current Auction;

(2) Allowances with a vintage year corresponding to a budget year three years subsequent to the current calendar year will be designated to the Advance Auction;

(3) Allowances with a vintage corresponding to a budget year one year or two years subsequent to the current year will remain in the Auction Holding Account until their vintage corresponds to the current calendar year. They will then be designated for the Current Auction.

(4) The Executive Officer will retire any allowances issued from ARB or a GHG ETS to which California has linked pursuant to Subarticle 12 that have no vintage.

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

§ 95911. Format for Auction of California GHG Allowances.

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(c) Method for Setting the Auction Reserve Price.

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(3) The Auction Administrator will calculate the Auction Reserve Price using the following procedure:

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(C) The auction administrator shall set the exchange rate as the most recently available ~~noon~~ daily closing~~buying~~ rate for U.S. and Canadian dollars as published by the Bank of Canada, and shall announce the exchange rate prior to the opening of the auction window.

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(4) The Auction Reserve Price will be announced prior to the opening of the auction window at 10 a.m. Pacific Standard Time (or Pacific Daylight Time when in effect) on the day of the auction, and will be in effect until the window closes at 1 p.m. Pacific Standard Time (or Pacific Daylight Time when in effect).~~The opening of the bidding window may be delayed or paused for no more than one hour by the Executive Officer due to technical systems failures.~~

***

(d) Auction Purchase Limit.

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

(2) Purchase Limit Values.

(A) The purchase limit for covered entities, electrical distribution utilities, opt-in covered entities, or direct corporate associations containing any of these types of entities will be 25 percent of the allowances offered for auction at both the Current and Advance Auctions.

(B) The purchase limit for voluntarily associated entities or direct corporate associations comprised entirely of these entities is four percent of the allowances offered for auction at the Current Auctions and 25 percent at the Advance Auctions.

(3) Auction Purchase Limits for Members of a Direct Corporate Association.

(A) Entities that are part of a direct corporate association must allocate a specified percentage share of the association's purchase limit to each member of the direct corporate association. The sum of the percentage shares allocated among the entities must equal one hundred percent. The purchase limit for each associated entity is its allocated percentage share multiplied by the auction purchase limit assigned to the association.

(B) For voluntarily associated entities that are part of a corporate association containing covered entities, opt-in covered entities, or electrical distribution utilities, the total purchase limit assigned to voluntarily associated entities within the corporate association must be less than or equal to four percent of the allowances to be auctioned at Current Auctions only.

~~(2) The auction purchase limit in section 95911(d)(4) 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)(2) the purchase limit is 25 percent of the allowances offered for auction.~~

~~(4) For the auction of current vintage allowances conducted pursuant to section 95910(c)(1):~~

~~(A) The purchase limit for covered entities and opt-in covered entities will be 15 percent of the allowances offered for auction, except for the last auction in 2014 where the purchase limit for covered and opt-in covered entities will be 20 percent of allowances offered for auction~~;

~~(B) The purchase limit for electrical distribution utilities will be 40 percent of the allowances offered for auction; and~~

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

~~(5) The auction purchase limit for auctions conducted from January 1, 2015 through December 31, 2020 will be 25 percent of the allowances offered in the Current Auction and 25 percent of the allowances offered in the Advance Auction for covered entities, opt-in entities, and electrical distribution utilities or direct corporate associations pursuant to section 95833.~~

~~(6) The auction purchase limit for auctions conducted from January 1, 2015 through December 31, 2020 will be 4 percent of the allowances offered in the Current Auction and 4 percent of the allowances offered in the Advance Auction for voluntarily associated entities or group of voluntarily associated entities with a direct corporate association pursuant to section 95833. The total purchase limit assigned to voluntarily associated entites within a direct corporate association including covered entities, opt-in entities, or electrical distribution utilities must be less than or equal to 4 percent. The purchase limit to be divided among the covered entities, opt-in entities, and electrical distribution utilities in the association is the purchase limit assigned to the corporate association less the value assigned to the voluntarily associated entities within the corporate association.~~

***

(f) If the quantity of bids accepted by the Auction Administrator is less than the number of allowances offered for sale then some allowances will remain unsold.

(1) If allowances remain unsold at auction, the Auction Administrator will fulfill winning bids with allowances from consignment sources in the following order:

(A) Allowances consigned to auction pursuant to section 95910(d)(2);

(B) Allowances consigned from limited use holding accounts pursuant to section 95910(d)(1);

(C) Allowances designated by ARB for auction pursuant to section 95910(c)(1)(B) and (c)(2)(B) and (C); ~~Allowances redesignated to the auction pursuant to section 95911(f)(3);~~ and

(D) Allowances redesignated to the auction pursuant to section 95911(f)(3) ~~Allowances designated by ARB for auction pursuant to section 95910(c)(1)(B) and (c)(2)(B) and (C)~~.

(2) When there are insufficient winning bids to exhaust the allowances from a consignment source in section 95911(f)(1), the auction administrator~~operator~~ will sell an equal proportion of allowances from each consigning entity in that source as follows:~~.~~

(A) The auction administrator will calculate the number of allowances sold on behalf of each consigning entity by multiplying the consigning entity's share of the total consigned allowances by the number of consigned allowances sold, rounding the number down to the nearest whole number; and

(B) To distribute any remaining allowances, the auction administrator will assign a random number to each entity consigning allowances. Beginning with the lowest random number, the auction administrator will assign one allowance to each entity until the remaining allowances have been assigned.

(3) Disposition of Allowances Designated by ARB for Auction Which Remain Unsold.

(A) Allowances designated by ARB pursuant to section 95910(c)(1)(B) and (c)(2)(B) and (c)(2)(C) for an auction which remain unsold shall be kept in the Auction Holding Account for later auction.

(B) Allowances designated by ARB for auction which remain unsold will be re-designated for auction after two consecutive auctions have resulted in an auction settlement price above the Auction Reserve Price. If future vintage allowances remain unsold at the end of the calendar year for which they were designated for sale at Advance Auction, they will remain in the Auction Holding Account until their vintage year. They will then be designated for the Current Auction.

(C) The number of allowances re-designated to a subsequent C~~c~~urrent or Advance Auction will not exceed 25 percent of allowances already designated by ARB for that auction. Allowances which remain unsold above that level will be held in the Auction Account for later auction.

(D) Allowances designated for Advance Auction which remain unsold until their vintage year equals the current calendar year will be designated for Current Auction pursuant to section 95910(c)(1)(B).

(4) Disposition of Consigned Allowances Remaining Unsold at Auction.

(A) Allowances consigned to auction from limited use holding accounts that remain unsold at auction will be held in the Auction Holding Account until sold ~~the next auction~~.

(B) Allowances consigned to auction pursuant to section 95921(g)(3) that remain unsold at auction will be held in the Auction Holding Account until sold ~~the next auction~~.

(g) Transfer of Unsold Allowances to the Allowance Price Containment Reserve (Reserve). Beginning January 1, 2018, current vintage allowances designated by ARB for auction pursuant to section 95911(f)(3) that remain unsold in the Auction Holding Account for more than 24 months will be transferred to the Reserve. Current vintage allowances designated by ARB pursuant to this section do not include allowances consigned to auction pursuant to section 95910(d).

(h) The auction bidding window may be delayed, rescheduled, or cancelled due to technical systems failures.

(1) The opening of the auction bidding window may be delayed or paused for no more than one hour by the Executive Officer due to technical systems failures.

(2) The bidding window may be rescheduled by the Executive Officer due to technical systems failures.

(3) Rescheduled Auctions.

(A) The auction bidding window must be rescheduled to ensure the financial services administrator can use any bid guarantees submitted pursuant to section 95912 prior to the expiration date required by section 95912.

(B) No additional auction applications may be accepted.

(C) The financial services administrator will keep all bid guarantees to complete financial settlement of the auction after the rescheduled bidding window.

(D) No bid guarantees provided pursuant to section 95912 may be amended.

(E) If technical systems failures cannot be resolved and a bidding window cannot be rescheduled to meet the requirements of this section, then the Executive Officer will cancel the auction bidding window.

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

§ 95912. Auction Administration and Participant Application.

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(d) Auction Participation Application Requirements.

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

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(D) An allocation of the holding limit among associated entities as defined in section 95833, or a change in the existing allocation of the holding limit among associated entities, if applicable; and

(E) An attestation disclosing the existence and status of any ongoing investigation or an investigation that has occurred within the last ten years with respect to any alleged violation of any rule, regulation, or law associated with any commodity, securities, environmental, or financial market for the entity participating in the auction, and all other entities with whom the entity has a ~~corporate association,~~ direct corporate association~~, or indirect corporate association~~ pursuant to section 95833 that participate in a carbon, fuel, or electricity market. The attestation must be updated to reflect any change in the status of an investigation that has occurred since the most recent auction application attestation was submitted.~~; and~~

~~(F) The applicant's holding account number.~~

***

(j) Auction participants must provide a bid guarantee to the financial services administrator at least 12 days prior to the auction.

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

(A) Cash in the form of a wire transfer; or

(B) An irrevocable letter of credit issued by a financial institution with a United States banking license; or

(C) A bond issued by a financial institution with a United States banking license.~~; or~~

~~(D) A Surety Bond issued by an institution named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the~~

~~Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.~~

***

(10) ~~If the auction participant submits a single bid guarantee instrument to cover bids in both the Current and Advance Auctions, the~~The auction administrator will apply the value of the bid guarantee to the Current Auction first when accepting bids pursuant to section 95911(e)(3). The remaining value of the bid guarantee will be used to determine acceptance of bids into the Advance Auction.

(k) After the auction administrator has notified the Executive Officer of the results of the auction the Executive Officer will:

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(2) After certification, direct the auction ~~financial services~~ administrator to~~:~~ notify each winning bidder of the auction settlement price, the number of allowances that the bidder purchased, the bidder's total purchase cost, and the deadline and method for submitting payment.

~~(A) Notify each winning bidder of the auction settlement price, the number of allowances purchased, the total purchase cost, and the deadline and method for submitting payment;~~

(3) After certification, direct the financial services administrator to:

(A~~B~~) Collect cash payments from winning bidders within seven days of notifying them of the auction results;

(B~~C~~) Use the bid guarantee to cover payment for allowance purchases by any entity that fails to make cash payment within seven days after bidders are notified of results and place the proceeds into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8;

(C~~D~~) Deposit auction proceeds from sales of ARB allowances sold at auction into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8;

(D~~E~~) Distribute auction proceeds to entities that consigned allowances for auction pursuant to section 95910(d); ~~and~~

(E~~F~~) Return any unused cash bid guarantee; and

(F) Return any bid guarantee form other than cash after receipt of payment for allowances awarded.

(G) A bid guarantee in a form other than cash may be held by the financial services administrator for multiple auctions or reserve sales upon agreement by the financial services administrator and bidder.

(4~~3~~) Upon determining that the payment for allowances has been deposited into the Greenhouse Gas Reduction Fund created pursuant to Government Code section 16428.8, or transferred to entities that consigned allowances, transfer the allowances purchased into each winning bidder's Holding Account, or to its Compliance Account if needed to comply with the holding limit;

(5~~4~~) Inform each approved external GHG emissions trading system and the associated tracking system of the serial numbers of allowances purchased at auction; and

(6~~5~~) Following the auction, the Executive Officer will publish at www.arb.ca.gov the following information:

(A) The names of the bidders;

(B) Auction settlement price; and

(C) Aggregated or distributional information on purchases with the names of the entities withheld.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code.
Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code and Section 16428.8, Government Code.

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

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(c) Only entities registered into the California GHG Cap-and-Trade Program as provided in sections 95811 or 95813 shall be eligible to purchase allowances from the Reserve. Prior to participating in a Reserve sale, any primary or

alternate account representative that will be submitting bids on behalf of entities eligible to participate in Reserve sales must have already~~:~~ submitted

~~(1) Complied with the Know-Your-Customer requirements of section 95834; and~~

~~(2) Submitted the~~ any additional information required by the financial services administrator. ~~contained in Appendix A of this subarticle.~~

(d) Timing of Reserve Sales.

(1) ~~The first Reserve sale will be conducted on March 8, 2013.~~

~~(2) Subsequent Reserve sales through 2014 shall be conducted on the first business day six weeks after each quarterly allowance auction scheduled pursuant to section 95910.~~

~~(3) Beginning in 2015,~~ Reserve sales shall be conducted pursuant to the schedule in Appendix C.

(A) Except for the Reserve sale immediately preceding the compliance obligation instrument surrender on November 1, a Reserve sale will only be offered if the Current Auction held in the preceding quarter resulted in a settlement price greater than or equal to 60% of the lowest Reserve tier price. Beginning in 2021, the first three Reserve Sales scheduled each year will only take place if the Current Auction held in the preceding quarter resulted in a settlement price greater than or equal to 60% of the Reserve Sale Price.

(B) The Reserve sale immediately preceding the compliance obligation instrument surrender on November 1 of each year will always be offered.

(C) A reserve sale will be conducted only if at least one entity that intends to participate in the reserve sale informs the Reserve Sale Administrator at least 20 days prior to the scheduled reserve sale and submits a bid guarantee to the financial services administrator at least 12 days before the scheduled reserve sale.

(~~4~~2) For any Reserve sale that will be offered, ~~T~~the Reserve sale administrator shall provide all eligible participants with notice of the number of allowances available for sale and the terms of the sale at least 30 days prior to the sale.

~~(5) The subsequent Reserve sales in section 95913((d)(2), shall be conducted on the first day six weeks after each quarterly allowances auction scheduled pursuant to section 95910 that is also a business day in California and any linked jurisdiction operating an External GHG ETS to which California has linked pursuant to subarticle 12.~~

~~(6) Section 95913(d)(5) will not apply after January 1, 2015.~~

(e) Reserve Sale Intent to Bid Notification Requirements

~~(1)~~ An entity that intends to participate in a reserve sale ~~must be registered in the tracking system and~~ must inform the Reserve Sale Administrator at least 20 days prior to a reserve sale of its intent to bid in that reserve sale, otherwise the entity may not participate in that reserve sale.

~~(2) An entity with any auction application information listed in subsection 95912(d)(4) that changes 20 days prior to a reserve sale, may be denied participation in a reserve sale.~~

(f) Reserve Tiers from 2013-2020.

(1) Creation of Reserve Tiers. Prior to the first Reserve sale, the Executive Officer shall divide allowances allocated to the Reserve from section 95870(a) into three equal-sized tiers. All allowances from vintages 2016 and subsequent years that are transferred to the Reserve pursuant to section 95911(g) shall be offered at the highest-priced tier.

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(5) This provision only applies to the Reserve sale immediately preceding the compliance obligation instrument surrender on November 1. Pursuant to sections 95870(i)(1) and 95871(h)(1), allowances will be made available at the highest price tier of the Allowance Price Containment Reserve if the amount of accepted bids at the highest price tier exceeds the number of allowances in that tier.

(A) ~~The allowances will be made available no sooner than the Reserve sale immediately preceding the compliance obligation instrument surrender on November 1, 2015.~~

~~(B)~~ If the quantity of allowances from section 95870(a) allocated to the highest price tier plus the allowances defined in section 95870(i)(1) is equal to or greater than the quantity of accepted bids in the highest price tier then all accepted bids for the highest price tier will be filled.

(~~C~~B) If the quantity of accepted bids at the highest price tier exceeds the allowances from section 95870(a) plus the allowances defined in section 95870(i)(1), allowances will be sold through the procedure outlined in section 95913(h)(5).

(~~D~~C) The accepted bids at the highest price tier will be filled first with allowances from section 95870(a) allocated to the highest price tier if available.

(~~E~~D) The allowances defined in section 95870(i)(1) will be sold beginning with the latest vintage and then the preceding vintages, from latest to most recent, until all accepted bids at the highest price tier are filled or until all the allowances defined in section 95870(i)(1) have been sold. The allowances defined in section 95870(i)(1) sold pursuant to this section shall first reduce the quantity of allowances defined in section 95870(b) if available and then will reduce the quantity of allowances defined in section 95870(i)(2).

(~~F~~E) Allowances sold pursuant to this section will be surrendered as allowances purchased from an Allowance Price Containment Reserve sale as specified in section 95856(b)(2)(A) and section 95856(h).

(g) At least 12 days before the scheduled sale, an entity intending to participate in a Reserve sale must submit to the financial services administrator a bid guarantee, payable to the financial services administrator, in an amount greater than or equal to the sum of the maximum value of the bids to be submitted by the entity.

***

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

(A) Cash in the form of a wire transfer; or

(B) An irrevocable letter of credit issued by a financial institution with a United States banking license; or

(C) A bond issued by a financial institution with a United States banking license.~~; or~~

~~(D) A Surety Bond issued by an institution named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.~~

***

(h) Purchase Determinations.

(1) The reserve sale administrator will conduct sales from each tier in succession, beginning with the lowest priced tier and proceeding to the highest priced tier.

(A) The Reserve sale will continue until either all allowances made available pursuant to sections 95870(a), 95871(a), and 95911(g) are sold from the Reserve or all the accepted bids are filled.

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(5) Filling Accepted Bids. If the sum of bids accepted by the reserve sale administrator for a tier is greater than the number of allowances in the tier, the reserve sale administrator will determine the total amount to be distributed from the tier to each covered entity using the following procedure:

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(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(h)(5)(A) ~~above~~ by the number of allowances in the tier, rounding the number down to the nearest whole number.

(C) To distribute any remaining allowances, the reserve sale administrator will assign a random number to each entity bidding in the reserve sale tier. Beginning with the lowest random number, the reserve sale administrator will assign one allowance to the last bundle purchased by each entity until the remaining allowances have been assigned.

***

(i) Resolution of Sales.

(1) After reviewing the conduct of the sale by the Reserve sale administrator, the Executive Officer will certify whether the Reserve sale met the requirements of this article.

(2) ~~Upon~~After certification of the sale results, the Executive Officer will ~~authorize~~ direct the ~~financial services administrator~~ reserve sale administrator to~~:~~

~~(A) N~~ notify Reserve sale participants of their purchases and total purchase cost~~;~~.

(3) After certification of the sale results, the Executive Officer will direct the financial services administrator to:

(~~B~~A) Process cash payments from participants and deposit proceeds into the Greenhouse Gas Reduction Fund created pursuant to Government Code 16428.8 up to seven days after bidders are notified of results;

(~~C~~B) Use the bid guarantee to cover payment for allowance purchases by any entity that fails to make cash payment within seven days after bidders are notified of results and place the proceeds into the Greenhouse Gas Reduction Fund created pursuant to Government Code 16428.8. If an entity has submitted more than one form of bid guarantee then the financial services administrator will apply the instruments to the unpaid balance in the order the instruments are listed in section 95913(g)(2); ~~and~~

(~~D~~C) Return any unused cash bid guarantee and return; and

(D) Return any bid guarantee in a form other than cash after receipt of payment for allowances awarded.

(E) A bid guarantee in a form other than cash may be held by the financial services administrator for multiple auctions or reserve sales upon agreement by the financial services administrator and bidder.

(~~3~~4) Upon determining that the financial services administrator has deposited the payment for allowances into the Greenhouse Gas Reduction Fund created pursuant to Government Code 16428.8, the Executive Officer shall transfer

the allowances purchased from the Allowance Price Containment Reserve sale into each winning bidder's compliance account.

(~~4~~5) The Executive Officer shall inform each approved external GHG emissions trading system and the associated tracking system of the serial numbers of allowances sold; and

(~~5~~6) The Executive Officer shall publish the sale results at www.arb.ca.gov.

***

(k) Operation of the Reserve After 2020.

(1) On January 1, 2021, all allowances remaining in the Reserve and all allowances transferred to the Reserve pursuant to sections 95871(a) and 95911(g) will be combined into a single price tier.

(2) Determination of the Reserve Sale Price.

(A) Beginning in 2021 ARB will set a U.S. dollar Base Reserve Sale Price equal to the auction reserve price determined for that year pursuant to section 95911(c)(3)(E), plus a fixed dollar amount. In 2021 this fixed dollar amount will equal $60. In each subsequent year the fixed dollar amount will be the previous year's fixed dollar amount adjusted for the rate of inflation as measured by the most recently available twelve months of the Consumer Price Index for all Urban Consumers.

(B) The Canadian dollar Base Reserve Sale Price for the corresponding year, as determined by the governments of the Canadian Provinces that have linked their GHG ETS with California pursuant to subarticle 12, will be converted into U.S. dollars using as an exchange rate the most recently available daily closing rate for U.S. and Canadian dollars as published by the Bank of Canada.

(C) The Reserve Sale Price used each year will be the larger of the U.S. dollar Base Reserve Sale Price and the Canadian dollar Base Reserve Sale Price as converted into U.S. dollars.

(3) Starting January 1, 2021, the procedures contained in sections 95913(f), (g), and (h) are replaced by sections 95913(l), (m), and (n). The resolution of sales continue to follow the procedures contained in sections 95913(i) and (j).

(l) This provision only applies to the Reserve sale immediately preceding the compliance obligation instrument surrender on November 1. Pursuant to sections 95870(i)(1) and 95871(h)(1), allowances will be made available at the Reserve Sale Price if the amount of accepted bids exceeds the number of allowances in the Reserve.

(1) If the quantity of allowances from sections 95870(a) and 95871(a) plus the allowances defined in sections 95870(i)(1) and 95871(h)(1) is equal to or greater than the quantity of accepted bids then all accepted bids will be filled.

(2) If the quantity of accepted bids exceeds the allowances from sections 95870(a) and 95871(a) plus the allowances defined in sections 95870(i)(1) and 95871(h)(1), allowances will be sold through the procedure outlined in section 95913(n)(3).

(3) The accepted bids will be filled first with allowances from sections 95870(a) and 95871(a) if available.

(4) The allowances defined in sections 95870(i)(1) and 95871(h)(1) will be sold beginning with the latest vintage and then the preceding vintages, from latest to most recent, until all accepted bids are filled or until all the allowances defined in section 95870(i)(1) and 95871(h)(1) have been sold. The allowances defined in section 95870(i)(1) and 95871(h)(1) that are sold pursuant to this section shall first reduce the quantity of allowances defined in section 95871(b) if available and then will reduce the quantity of allowances defined in section 95871(h)(2).

(E) Allowances sold pursuant to this section are immediately eligible to satisfy any compliance obligation, regardless of the vintage of the allowance.

(m) At least 12 days before the scheduled sale, an entity intending to participate in a Reserve sale must submit to the financial services administrator a bid guarantee, payable to the financial services administrator, in an amount greater than or equal to the sum of the maximum value of the bids to be submitted by the entity.

(1) The maximum value of a set of bids is the quantity bid times the Reserve Sale Price.

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

(A) Cash in the form of a wire transfer; or

(B) An irrevocable letter of credit issued by a financial institution with a United States banking license; or

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

(3) A bid guarantee submitted in any form other than cash must be payable within three business days of payment request.

(4) The bid guarantee will be made payable to the financial services administrator.

(5) The bid guarantee will expire no sooner than 26 days after the Reserve sale.

(6) The financial services administrator will evaluate the bid guarantee and inform the Reserve sale administrator of the value of the bid guarantee once it is found to conform to this section and is accepted by the Executive Officer.

(7) The Executive Officer may revise the timing of reserve sales intent to bid notification requirements and bid guarantee submittal requirements to ensure a minimum of four business days is available between the intent to bid notification and bid guarantee submittal due dates.

(n) Sale Operations.

(1) The Reserve sales window will open at 10 a.m. Pacific Standard Time (or Pacific Daylight Time, when in effect) on the day of the sale, and bids may be submitted until the window closes at 1 p.m. Pacific Standard Time (or Pacific Daylight Time, when in effect).

(A) Each bid will consist of a quantity of allowances in multiples of 1,000 allowances.

(B) An entity may submit multiple bids.

(2) The reserve sale administrator will only accept a bid for a bundle of 1,000 allowances:

(A) If acceptance of the bid would not result in violation of the holding limit pursuant to section 95920(b); 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(g).

(3) Filling Accepted Bids.

(A) For a Reserve sale not occurring immediately preceding the compliance instrument surrender on November 1, the Reserve sale will continue until either all allowances made available pursuant to sections 95870(a) and 95871(a) are sold from the Reserve or all the accepted bids are filled.

(B) For a Reserve sale immediately preceding the compliance obligation instrument surrender on November 1 will continue until all accepted bids are filled or the allowances made available pursuant to sections 95870(a), 95870(i)(1), 95871(a), and 95871(h)(1) are sold.

(C) If the sum of bids accepted by the reserve sale administrator is greater than the number of allowances in the Reserve, the Reserve sale administrator will calculate the number of allowances distributed to each bidding entity by multiplying the bidding entity's share of the total number of accepted bids by the number of allowances in the Reserve, rounding the number to the nearest whole number.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code.
Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code and Section 16428.8, Government Code.

§ 95914. Auction Participation and Limitations.

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(c) Disclosure of Auction Participation Information.~~Non-disclosure of Bidding Information.~~

(1) Except as provided in section 95914(c)(2), all entities registered into the Cap-and-Trade P~~p~~rogram pursuant to section 95830, their direct and indirect corporate associations, and ~~or~~ consultants and advisors as identified in

section 95923 shall not release any of the following information regarding auction participation or reserve sale participation, as applicable:

(A) Intent to participate, or not participate, at auction, and auction approval status~~, maintenance of continued auction approval~~;

(B) Bidding strategy~~;~~ at past or future auctions, including the specification of an auction settlement price or range of potential auction settlement prices at which an entity is willing to buy or sell allowances;

(C) Bid price or bid quantity information at past or future auctions; and

(D) Information on the amount of any bid guarantee ~~it~~ provided to the financial services administrator.

(2) Auction participation information listed in section 95914(c)(1) may be released under the following conditions:

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(D) When the release is ~~by an entity regulated by~~ to an agency that has regulatory jurisdiction over privately owned utilities in the State of California of information regarding compliance instrument cost and acquisition strategy and other disclosures specifically required or authorized by the regulatory agency pursuant to any of its applicable rules, orders, or decisions. In the event of a disclosure pursuant to this section, and upon the request of the Executive Officer, the entity ~~regulated by the agency~~ must provide ~~to the Executive Officer~~ within 10 business days~~,~~ the statutory or regulatory reference or the general order, decision, or ruling to ARB that requires the disclosure of the specific information related to bidding strategy.

(3) If an entity participating in an auction has retained the services of a Cap-and-Trade Consultant or Advisor, as defined in section 95923, regarding auction bidding strategy, then:

(A) The entity must ensure against the Consultant or Advisor transferring the entity's information to other auction participants or coordinating the bidding strategy among participants;

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(D) The information must be ~~physically~~ received by the Executive Officer at least 15 days prior to an auction.

~~(d) Application of the Corporate Association 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 direct corporate association is limited pursuant to section 95911(d).~~

~~(2) Entities that are part of a direct corporate association must allocate shares of the purchase limit amongst themselves. This allocation of shares of the purchase limit must be provided pursuant to section 95833. 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. Each associated entity's allocated purchase limit share times the auction purchase limit assigned to the association becomes the purchase limit for that entity.~~

~~(3) If a corporate association consists of entities with a compliance obligation and voluntarily associated entities, then the following additional restrictions apply:~~

~~(A) For Current Auctions, the total purchase limit for the association is 15 percent, unless some of the included covered entities are electrical distribution utilities, in which case the purchase limit is 40 percent. For the last auction in 2014, the auction purchase limit for associations with covered entities or opt-in covered entites will be 20 percent of current vintage allowances offered for sale. The auction purchase limit for Current Auctions conducted from January 1, 2015 through December 31, 2020 will be 25 percent for corporate associations that include only electrical distribution utilities, covered entities, and opt-in covered entities. For Advance Auctions, the purchase limit for corporate associations containing covered entities, opt-in entities, or electrical distribution utilities is 25 perecent of allowances offered for auction.~~

~~(B) Corporate associations containing only voluntarily associated entites have a purchase limit for both Current Auction and Advance Auction ofor 4 percent. For voluntarily associated entites that are part of a corporate association containing covered entities, opt-in entites, or~~

~~electrical distribution utilites, the total purchase limit assigned to voluntarily associated entities within the corporate association must be less than or equal to 4 percent.~~

~~(C) The purchase limit to be divided among the covered or opt-in entities is the purchase limit assigned to the corporate association less the value assigned to the voluntarily associated entities within the corporate association.~~

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.

§ 95920. Trading.

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(b) Application of the Holding Limit.

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(3) The holding limit calculation will not include allowances contained in Annual Allocation Holding Accounts. ~~Application of the Holding Limit to Exchange Clearing Holding Accounts. Compliance instruments transferred out of an exchange clearing holding account will count against the holding limit of the destination account listed in the transfer request submitted by an exchange clearing holding account at the time the transfer request is confirmed.~~

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(5) If an entity is in compliance with the current vintage holding limit on December 31 of any year and the reclassification of future vintage allowances as current vintage allowances pursuant to section 95920(c)(1)(C) causes it to exceed the holding limit on January 1 of the next compliance year, then: ~~If the violation is not discovered until after a transfer request is recorded, or the holding limit is exceeded at the beginning of a compliance year when allowances purchased at Advance Auction now fall under the current vintage holding limit pursuant to section 95920(c)(1)(C), then:~~

(A) The accounts administrator will inform the entity~~violator~~; and

(B) The entity ~~violator~~ will have five business days to bring its account balances within the holding limit. After that, the Executive Officer may transfer allowances in excess of the holding limit to the Auction Holding Account for consignment to auction pursuant to section 95910(d)(2).

(C) Allowances transferred to the Auction Holding Account for consignment will be drawn first from the entity's Holding Account and, if necessary, from the entity's Compliance Account. The order for removing allowances for consignment will be the opposite of the retirement order in section 95856(h)(1).

(6) Penalties for Holding Limit Violations.

(A) For an entity that is out of compliance with the holding limit only, as described in section 95920(b)(5), penalties may be applied if the entity fails to bring its account balances under the holding limit within the five business day period allowed pursuant to section 95920(b)(5)(B). Otherwise, penalties may be applied whenever the holding limit is exceeded.

(B) Penalties may be applied if the violation of the holding limit is not discovered until after a transfer that would exceed the holding limit is registered into the tracking system.

~~Penalties may be applied whenever the holding limit is exceeded or transfer requests are filed with the accounts administrator that would violate the holding limit~~.

(c) The holding limit will be separately calculated to holdings of:

(1) Current Vintage Allowances. This category of allowances consists of:~~Allowances including:~~

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(2) Future Vintage Allowances. This category of allowances consists of: ~~Allowances that were purchased at the Advance Auction and still have a vintage year greater than the current calendar year.~~

(A) Allowances that were purchased at the Advance Auction and still have a vintage year greater than the current calendar year; and

(B) Allowances with a vintage year greater than the current calendar year that were obtained through true-up allocation.

(d) The holding limit will be calculated for allowances qualifying pursuant to section 95920(c)(1) as the sum of:

***

(2) Limited Exemption from the Holding Limit.

(A) The limited exemption from the holding limit (limited exemption) is the maximum number of allowances ~~which can be held in an entity's compliance account~~ that will not be included in the holding limit calculated pursuant to section 95920(c)(1). To qualify for inclusion within the limited exemption, allowances must be placed in the entity's Compliance Account. The limited exemption is available to covered entities and opt-in covered entities but not to voluntarily associated entities.

(B) On January 1, 2017, the limited exemption will be calculated for entities already registered as covered entities or opt-in covered entities as the sum of the emissions contained in the three most recent annual emissions data reports that have received a positive or qualified positive emissions data verification statement for emissions that generated a compliance obligation pursuant to section 95851. If ARB has received only two such reports from an entity, then the limited exemption for the entity will equal the sum of the emissions contained in the reports received plus the amount of emissions contained in the most recent report. If ARB has received only one such report from an entity, then the limited exemption for the entity will equal three times the emissions contained in that report.~~On July 1, 2014 the limited exemption will be calculated as the sum of the annual emissions data reports received in 2012 and 2013 that have received a positive or qualified positive emissions data verification statement for emissions that generate a compliance obligation pursuant to section 95851(a). On November 2, 2014 the limited exemption will be increased by the~~

~~amount of emissions contained in the emissions data report received in 2014 that have received a positive or qualified positive emissions data verification statement for emissions that generate a compliance obligation pursuant to section 95851(a).~~

(C) Calculation of the limited exemption for entities registering as covered entities or opt-in covered entities registering after January 1, 2017. The limited exemption for an entity that registers as a covered entity or opt-in covered entity after January 1, 2017 will be calculated as twice the annual emissions contained in the emissions report for the first year that the entity has a compliance obligation, provided that the emissions data report has received a positive or qualified positive emissions data verification statement for emissions that generate a compliance obligation pursuant to section 95851.
~~On January 1, 2015 the limited exemption will be increased by the amount of emissions that generate a compliance obligation pursuant to section 95851(b), (c), and (d) that are included in the emissions data report received in 2014 that have received a positive or qualified positive emissions data verification statement.~~

(D) ~~Beginning in 2015, the~~ The limited exemption will be increased on November 2 of each year by the amount of emissions that generate a compliance obligation pursuant to section 95851(a), (b), (c), and (d) that are included in the emissions data report received that year that have received a positive or qualified positive emissions data verification statement.

(E) If ARB has assigned emissions to an entity, for any year, in the absence of a positive or qualified positive emissions data verification statement, the calculation of the limited exemption will be calculated using the assigned emissions. If the emission reports scheduled to be used to increase the ~~L~~limited ~~E~~exemption are not available at the time of a scheduled increase and ARB has not assigned emissions to the entity, the ~~L~~limited ~~E~~exemption will be increased by the amount of the

most recently received report that has received a positive or qualified positive emissions data verification statement. If this procedure is used, the ~~L~~limited ~~E~~exemption will not be adjusted using data in the reports scheduled to be received that year until the next scheduled change in the ~~L~~limited ~~E~~exemption.

(F) ~~Beginning in 2015, on~~On November 2 of the calendar year following the end of a compliance period, the limited exemption will be reduced by removing emissions contained in the annual emissions reports from the calculation of the limited exemption, starting with the oldest report. The number of years of emissions to be removed from the limited exemption is the lesser of the number of years in the compliance period just completed and the number of years in the compliance period for which the entity had a compliance obligation.~~by the sum of the entity's compliance obligation over that compliance period.~~

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(f) Application of ~~the~~ Corporate Association ~~Disclosure~~ to the Holding Limit.

(1) The total number of allowances held by a group of entities with a direct corporate association pursuant to section 95833 must sum to less than or equal to the holding limits pursuant to sections 95920(d) and (e).

(2) Calculation of the Limited Exemption for a Direct Corporate Association.~~The limited exemption for each entity which is part of a direct corporate association is the same as defined in section 95920(d).~~

(A) Entities with a direct corporate association that are not part of a consolidated account calculate their limited exemption as described in section 95920(d).

(B) The limited exemption for a consolidated account is the sum of the limited exemption calculation for the entities consolidated into the account.

(3) Entities that are part of a direct corporate association that choose to opt out of account consolidation pursuant to section 95833(f)~~(3)~~ must allocate shares of the holding limit among themselves. This holding limit allocation results in

each entity having a specified percentage share of the group's holding limit. The sum of the percentage shares allocated among the entities must sum to one hundred percent.

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

§ 95921. Conduct of Trade.

(a) Transfers of Compliance Instruments Between Accounts.

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~~(3) Through December 31, 2014 the parties to a transfer will be in violation and penalties may apply if the above process is completed:~~

~~(A) More than three days after the initial submission of the transfer request; or~~

~~(B) More than three days after the expected settlement date of the transaction agreement for which the transfer request is submitted.~~

(~~4~~3) ~~Beginning January 1, 2015 the~~The parties to a transfer will be in violation and penalties may apply if the above process is completed:

(A) More than three days after the initial submission of the transfer request; or

(B) More than three days after the expected termination date of the transaction agreement for which the transfer request is submitted.

(~~5~~4) ~~An~~Except for transfers between direct corporate associates disclosed pursuant to section 95833, an entity may not submit a transfer request to another registered entity without an existing written or recorded oral transaction agreement with that party authorizing a transfer.

(b) Information Requirements for Transfer Requests Beginning on January 1, 2015. ~~Parties to the transfer request agree to provide documentation about the transaction agreement for which the transfer request was submitted upon the request of the Executive Officer.~~ The following information must be reported to

the accounts administrator as part of a transfer request before any transfer of allowances can be recorded on the tracking system:

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(4) A transfer request submitted for an over-the-counter agreement for the sale of compliance instruments for which delivery is to take place more than three days from the date the parties enter into the transaction agreement or that involves multiple transfers of compliance instruments over time or incorporates compliance instrument requirements with other product sales or purchases, must provide the following information:

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(G) If the transaction agreement does not determine~~specify~~ the price using one of the above formats, provide a brief description of the pricing method as well as the price resulting from the pricing method for the specific transfer.

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(6) If the transaction agreements do not contain a price for compliance instruments, entities may enter a price of zero into the transfer request if the transfer request is submitted to fulfill one of the following transaction agreement types and the entity discloses the agreement type in the transfer request.

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(F) The proposed transfer results from a transaction agreement that incorporates compliance instrument requirements with other product sales or purchases, and specifies a total cost for the transaction but does not specify a price or cost basis for the sale of the compliance instruments alone.

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(c) ~~Information Requirements for Transfer Requests Through December 31, 2014.~~ Parties to the transfer request agree to provide documentation about the transaction agreement for which the transfer request was submitted ~~upon the~~ within five days of a request of the Executive Officer. ~~The following information~~

~~must be reported to the accounts administrator as part of a transfer request before any transfer of allowances can be recorded on the tracking system:~~

(1) The required documentation must be sufficient to verify the information entered by the account representative into the fields required for the transfer request.

(2) The Executive Officer will treat the documentation as confidential business information to the extent permitted by law.

~~(1) Holding account number of the source account and identification of two individuals who are the primary account representative and/or alternate account representatives initiating the transfer request;~~

~~(2) Holding account number of destination account;~~

~~(3) Date of the transaction agreement for which the transfer request is submitted;~~

~~(4) Expected settlement date. If completion or confirmation of the transfer request process is the last action required by the agreement, the date the transfer request is submitted should be entered as the expected settlement date. If there are financial, contingency, or other terms to be settled after the transfer request is completed, the date those terms are to be settled should be entered as the expected settlement date. If the transaction agreement does not specify a date for the settlement of financial, contingency, or other terms that would be completed after the transfer request is completed the entity may enter its best estimate of the expected settlement date as long as the date is later than the date the transfer request is submitted.~~

~~(5) Price of the compliance instrument in U.S. or Canadian dollars.~~

~~(6) If the transaction agreement does not contain a price for compliance instruments, entities may enter a price of zero into the transfer request if the transfer request is submitted to fulfill one of the following transaction agreement types.~~

~~(A) The proposed transfer is between entities with a direct corporate association.~~

~~(B) The proposed transfer is from an entity's holding account to its compliance account.~~

~~(C) The proposed transfer is from a publicly-owned utility to an entity or a Joint Powers Authority operating a generation facility as a joint venture with the utility.~~

~~(D) The proposed transfer is from a public utility to a federal power authority to cover emissions associated with imported power.~~

~~(E) The proposed transfer is from an electric distribution utility to an entity operating a generation facility under a tolling agreement or other long-term power purchase agreement that does not specify a price or cost basis for the sale of the compliance instruments alone.~~

~~(F) The proposed transfer results from a transaction agreement that incorporates compliance instrument requirements with other product sales or purchases, and does not specify a price or cost basis for the sale of the compliance instruments alone.~~

~~(G) The proposed transfer is from a publicly-owned utility to an entity (including a Joint Powers Authority of which that utility is a member, or an operating agent acting on behalf of such a Joint Powers Authority) operating a generation facility from which the utility procures electricity.~~

~~(c) Intentionally Omitted~~

(d) Transfers Involving Exchange Clearing Holding Accounts.

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(3) A request to transfer compliance instruments to ~~or from~~ an exchange clearing holding account does not require confirmation by an account representative of the destination account pursuant to section 95921(a)(1)(C).

~~(4) A request to transfer compliance instruments from an exchange clearing holding account does not require confirmation by a second account.~~

(e) Protection of Confidential Information. The Executive Officer will protect confidential information to the extent permitted by law by ensuring that the accounts administrator:

***

(3) Protects as confidential the quantity and serial numbers of compliance instruments contained in <u>individual entity</u> holding accounts; and

(4) Releases information on the quantity of compliance instruments contained in compliance accounts in a timely manner that maintains the confidentiality of the identity of account holders.

***

(g) Restrictions on Registered Entities. If an entity registered pursuant to section 95830 violates any provision specified in this article the Executive Officer may:

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(3) Suspend or revoke the registration of opt-in covered entities, voluntarily associated entities, and other entities registered pursuant to section 95830;

(A) A registered entity that has had its holding account revoked or suspended may not hold compliance instruments or register with the accounts administrator for another set of accounts in any capacity. If registration is revoked or suspended the entity must sell or voluntarily retire all compliance instruments in its holding account within 30 days of revocation; and

***

(h) Information Reporting By Holders of Exchange Clearing Holding Accounts.

(1) Holders of exchange clearing holding accounts must make the exchange's transaction records underlying the submission of a transfer request on CITSS available to ARB within 10 calendar days of a request from the Executive Officer.

***

(3) Holders of exchange clearing holding accounts are not required to include the information listed in 95921(b)(3), (4), and (6)~~, and 95921(c)(3), (4), (5) and (6)~~ in transfer requests to the accounts administrator.

(i) Transfer Request Deficiencies

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(2) If the accounts administrator detects a deficiency in a transfer request after it is recorded into the tracking system:

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(D) If the entities that submitted the transfer request cannot correct the deficiency within five business days after notification by the accounts administrator, the Executive Officer may instruct the accounts administrator to reverse the transfer. The correction of the deficiency within five business days does not prevent the Executive Officer from applying penalties for the underlying violations.

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

§ 95922. Banking, Expiration, and Voluntary Retirement.

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(d) Voluntary Retirement of Compliance Instruments.

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(2) To voluntarily retire a compliance instrument, the registered entity submits a ~~transaction report to the accounts administrator listing its account number, the type and number of instruments to be retired, and~~ transfer request naming the ARB Retirement Account as the destination account.

(A) The transfer request may be based on a transaction agreement with an unregistered entity as long as that entity is not registered into an external GHG program or ETS, regardless of whether the external GHG program or ETS has a Retirement-Only Agreement with ARB.

(B) An entity may not transfer more than 10,000 allowances per year to the Retirement Account based on transaction agreements with a single entity.

(C) A transfer request that is based on a transaction agreement with an unregistered entity that requires immediate delivery to the Retirement Account does not violate the prohibitions contained in section 95921(f)(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.

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§ 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.) and after the Governor of California has made the findings required by Government Code section 12894(f). Provisions set forth in this Article shall specify which compliance instruments issued by a linked GHG ETS may be used to meet a compliance obligation under this Article.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code.
Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code and Section 12894, Government Code.

***

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

(a) Pursuant to section 95941, covered ~~Covered~~ or opt-in covered entities may use compliance instruments issued by the following programs to meet their compliance obligation under this article:

(1)~~(a)~~ Government of Quebec (effective January 1, 2014).

(2) Government of Ontario (effective January 1, 2018).

(b) Covered or opt-in entities may only use compliance instruments issued by an external GHG ETS to which the Board has approved a Retirement-Only Limited Linkage pursuant to sections 95941 and 95944 to meet their compliance obligation under this article.

(c) Entities registered in an external GHG Program may arrange to retire California compliance instruments for purposes of compliance in their own external GHG program only if ARB has approved a Retirement-Only Access Agreement with the external GHG Program pursuant to section 95945.

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

§ 95944. Retirement-Only Limited Linkage.

(a) The Board may approve a Retirement-Only Limited Linkage with an external GHG ETS pursuant to the procedure in section 95941.

(1) A Retirement-Only Limited Linkage allows California covered or opt-in covered entities to arrange for the retirement of compliance instruments in the linked GHG ETS and to obtain approval from the Executive Officer for credit towards their compliance obligation.

(2) The Board approval will specify the types of compliance instruments from the linked GHG ETS that may be used to meet a compliance obligation under this Article.

(3) The Board approval may specify limitations on the use of compliance instruments from the linked GHG ETS, such as quantitative use restrictions.

(b) Administration.

(1) The linkage agreement will ensure that purchases, transfers, and retirements of compliance instruments by California registered entities in the linked GHG ETS will follow the rules of that system.

(2) The linkage agreement will require the external GHG ETS to provide the accounts administrator with documentation on the compliance instruments retired by California entities on the linked GHG ETS at the time of each California compliance event.

NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code.
Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code and Section 12894, Government Code.

§ 95945. Retirement-Only Agreements With External GHG Program.

(a) The Board may approve a Retirement-Only Agreement with an external GHG program.

(1) A Retirement-Only Agreement allows entities registered with an external GHG program to arrange retirement of California compliance instruments for credit towards their compliance obligation in the external GHG program.

(2) The Retirement-Only Agreement will specify the types of compliance instruments eligible for retirement.

(3) The Retirement-Only Agreement may contain limitations on the retirement of California compliance instruments by entities registered with the external GHG program.

(b) Administration.

(1) The Accounts Administrator will create an External GHG Program Holding Account under the control of the Executive Officer pursuant to section 95831(b)(7).

(2) Entities registered with an external GHG program may not register with California for the purpose of retiring California compliance instruments for compliance credit with their own GHG program, regardless of whether that program has a Retirement-Only Agreement or other linkage agreement with California.

(c) Conduct of Transactions Agreements and Transfer Requests Under a Retirement-Only Agreement.

(1) An entity registered with an external GHG program with a Retirement-Only Agreement may enter into a purchase transaction agreement with an entity registered in California requiring the California entity to transfer a number of eligible California compliance instruments to the External GHG Program Holding Account.

(2) The California entity will file a transfer request identifying the External GHG Program Holding Account as the destination account. The transfer request will include a field containing the purchasing entity's ID code as specified by the entity's external GHG program.

(3) Upon receipt and verification that the transfer has met the requirements of this Article, the Executive Officer will transfer the compliance instruments to

the Retirement Account. This transfer request will include the purchasing entity's ID code as specified by the entity's external GHG program.

(4) The accounts administrator will provide the administrator of the external GHG program with documentation on the compliance instruments retired in California's tracking system by entities registered into the external GHG program when the administrator of the external GHG program needs the information to conduct a compliance event.

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

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§ 95972. Requirements for Compliance Offset Protocols.

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(c) Geographic Applicability. A Compliance Offset Protocol must specify where the protocol is applicable. The geographic boundary must be within the United States~~,~~ or United States Territories~~, 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:

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

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(D) The Offset Project Operator or Authorized Project Designee may transition an offset project to the most recently incorporated version of the Compliance Offset Protocol by updating the listing information in an Offset Project Data Report pursuant to section 95976. Projects may only transition at the initial submission of the Offset Project Data R~~r~~eport for a reporting period to ARB or the Offset Project Registry. An offset projects that transitions to a new version of the Compliance Offset Protocol during a crediting period will continue in the same crediting period and not start a new crediting period.

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(G) If any law, regulation, or legally binding mandate requiring GHG emission reductions or GHG removal enhancements comes into effect in California or in a linked jurisdiction pursuant to section 95943 during an offset project's crediting period, then the offset project is eligible to continue to receive ARB offset credits for those GHG emission reductions and GHG removal enhancements for the remainder of the offset project's crediting period, but the offset project may not renew that crediting period. If an offset project has not been listed prior to the law, regulation, or legally binding mandate going into effect, or the law, regulation, or legally binding mandate goes into effect before the offset project's crediting period renews, then only emission reductions or removal enhancements that are in excess of what is required to comply with those laws, regulations, and/or legally binding mandates are eligible for ARB offset credits.

(3) Is located in the United States~~,~~ or United States Territories~~, Canada, or Mexico~~.

(b) Local, Regional, State, and National Regulatory Compliance and Environmental Impact Assessment Requirements. An Offset Project Operator or Authorized Project Designee must fulfill all local, regional, state, and national requirements on environmental impact assessments that apply based on the offset project location. In addition, an offset project must also fulfill all local, regional, state,

and national environmental and health and safety laws and regulations that apply based on the offset project location and that directly apply to the offset project, including as specified in a Compliance Offset Protocol. The project is considered out of regulatory compliance if the project activities were subject to enforcement action by a regulatory oversight body during the Reporting Period~~.~~, although whether such enforcement action has occurred is not the only consideration ARB may use in determining whether a project is out of regulatory compliance.

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

(A) The time period that the offset project is out of regulatory compliance begins on the date that the activity which led to the offset project being out of regulatory compliance actually began and not necessarily the date that the regulatory oversight body first became aware of the issue. For determining the initial date of the offset project being out of regulatory compliance the Offsets Project Operator or Authorized Project Designee must provide one or more of the following to ARB:

1. Documentation from the relevant local, state, or federal regulatory oversight body that initiated the enforcement action identifying the precise start date of the offset project being out of regulatory compliance. Evidence of this date may include CEMS or other monitoring data, engineering estimates, satellite imagery, witness statements, or other reasonable method to aid in the identification of the precise start date;

2. Documentation of the date of the last inspection by the relevant local, state, or federal regulatory oversight body that initiated the

enforcement action(s) that did not indicate the offset project was out of regulatory compliance for the activity in question; or

3. If the last inspection described in section 95973(b)(1)(A)(2) above was prior to the beginning of the current Reporting Period, or if documentation regarding the date the project was out regulatory compliance is not provided as set forth in sections 95973(b)(1)(A)(1) or (2) above to the satisfaction of ARB, then the time period that the offset project is out of regulatory compliance, for purposes of the current Reporting Period, commences at the beginning of the current Reporting Period.

(B) For determining the end date when the offset project returned to regulatory compliance, the Offset Project Operator or Authorized Project Designee must provide documentation from the relevant local, state, or federal regulatory oversight body which initiated the enforcement action stating that the offset project is back in regulatory compliance. The date when the offset project is deemed to have returned to regulatory compliance is the date that the relevant local, state, or federal regulatory oversight body that initiated the enforcement action(s) in questions determines that the project is back in regulatory compliance. This date is not necessarily the date that the activity ends or the device is repaired, and may include time for the payment of fines or completion of any additional requirements placed on the offset project by the regulatory oversight body, as determined by the regulatory oversight body. If the relevant regulatory oversight body does not provide a written determination regarding the date when the project returned to regulatory compliance to the satisfaction of ARB, then for purposes of the applicable Reporting Period, the Offset Project Operator or Authorized Project Designee must use the end of the Reporting Period for the end date when the offset project returned to regulatory compliance.

(C) Nothing in this section precludes the invalidation of ARB offset credits issued for previous or subsequent Reporting Periods if ARB determines that the offset project was out of regulatory compliance in previous or subsequent Reporting Periods. The offset project will continue to be deemed out of regulatory compliance in subsequent Reporting Periods until the Offset Project Operator or Authorized Project Designee provides the documentation demonstrating regulatory compliance identified in section 95973(b)(1)(B) to ARB.

(D) ARB's written determination and any supporting documents from the regulatory oversight body relating to the offset project being out of regulatory compliance and the timeframe identified for removal from the Reporting Period will be made public.

(E) For determining GHG emission reductions or GHG removal enhancements for the Reporting Period as modified to reflect any period the offset project was out of regulatory compliance, the Offset Project Operator or Authorized Project Designee must remove the days when the project was out of regulatory compliance from the modeled or measured project baselines for projects using a protocol in sections 95973(a)(2)(C)2. or 5. The entire calendar day during which any portion of the project was not in regulatory compliance must be removed from the project baseline.

(2) An offset project using a protocol from sections 95973(a)(2)(C)1., 3., 4., or 6., is not eligible to receive ARB or registry offset credits for GHG reductions or GHG removal enhancements for the entire Reporting Period if the offset project is not in compliance with regulatory requirements directly applicable to the offset project during the Reporting Period.

(3) Project activities subject to the regulatory compliance requirements of this section are set forth in Appendix E.

(c) Early Action Offset Project Commencement Date. Offset projects that transitioned to Compliance Offset Protocols pursuant to ~~section 95990(k)~~ the

Program for Recognition of Early Action Offset Credits may have an Offset Project Commencement date before December 31, 2006.

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

§ 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).

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(2) The director or officer, as identified in section 95830(c)(1)(B), of the Offset Project Operator may delegate responsibility to the Authorized Project Designee for performing or meeting all the requirements of sections 95975, 95976, 95977, 95977.1, 95977.2, 95980, 95980.1, 95981, 95981.1, and, where the Authorized Project Designee is specifically identified, the requirements in sections 95983, 95985, and ~~95990~~the Program for Recognition of Early Action Offset Credits, on behalf of the Offset Project Operator.

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

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

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(c) General Requirements for Offset Project Listing. For offset projects being listed by ARB or an Offset Project Registry in an initial or renewed crediting period, the

Offset Project Operator and any Authorized Project Designees approved pursuant to section 95974 must:

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(3) Attest in writing to ARB as follows:

"I understand that the offset project activity and implementation of the offset project must be in accordance with all applicable local, regional, and national environmental and health and safety laws and regulations that apply to the offset project location. I understand that offset projects are not eligible to receive ARB or registry offset credits for GHG reductions and GHG removal enhancements that are not in compliance with the requirements of the C~~c~~ap-and-T~~t~~rade P~~p~~rogram.";

***

(h) Timing for Offset Project Listing in an Initial Crediting Period. The Offset Project Operator or Authorized Project Designee must submit the information in section 95975(e) to ARB or an Offset Project Registry no later than the date at which the Offset Project Operator or Authorized Project Designee submits its required Offset Project Data Report for its first Reporting Period under a Compliance Offset Protocol to ARB or an Offset Project Registry pursuant to section 95976. ~~For offset projects with an Offset Project Commencement date on or after January 1, 2015, t~~The Offset Project Operator or Authorized Project Designee must submit the listing information in section 95975(e) to ARB or an Offset Project Registry ~~within~~no later than one year ~~of~~after Offset Project Commencement, or ~~within~~no later than one year ~~of~~after meeting the requirements of section 95975(l), whichever is later. If~~, after January 1, 2015,~~ the Offset Project Operator or Authorized Project Designee does not submit the listing information in section 95975(e) for the offset project to ARB or an Offset Project Registry within one year of Offset Project Commencement, or within one year of meeting the requirements of section 95975(l), whichever is later, it will be ineligible to be listed under a Compliance Offset Protocol and will not be issued registry offset credits and ARB offset credits pursuant to sections 95980 and 95981.

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(o) Transferring an Offset Project~~ to Another Offset Project Registry~~. If the Offset Project Operator or Authorized Project Designee transfers an offset project listed with ARB or an Offset Project Registry to ARB or another Offset Project Registry:

(1) ARB or ~~T~~the Offset Project Registry that originally listed the offset project must change the offset project listing status on its registry system to "Transferred ARB Project."

(A) If the only action taken by the Offset Project Operator or the Authorized Project Designee was to have the listing documentation for the offset project approved by ARB or the original Offset Project Registry, ARB or the original Offset Project Registry must retain the information related to the offset project on its website for the duration of one year before it is removed from the registry system. If the listing documentation was only submitted by the Offset Project Operator or Authorized Project Designee, but not approved by ARB or the original Offset Project Registry, ARB or the original Offset Project Registry does not need to retain the submitted listing documentation.

(B) If a verification body submitted an Offset Verification Statement, ARB or the original Offset Project Registry must retain the information related to the offset project on its website for the duration of the offset project life.

(C) ARB or t~~T~~he new Offset Project Registry must retain the listing date and all listing information as approved by ARB or the original Offset Project Registry. If the offset project has not undergone initial verification, the Offset Project Commencement date may change as a result of verification activities only.

(2) The Offset Project Operator or Authorized Project Designee must submit the original listing documentation reviewed and accepted by ARB or the original Offset Project Registry pursuant to this section to the new Offset Project Registry. The Offset Project Operator or Authorized Project Designee may

only make changes to the listing documentation pursuant to section 95975(m).

(3) The Offset Project Operator or Authorized Project Designee may not transfer an offset project to ARB or another Offset Project Registry once a Notice of Offset Verification Services has been submitted for a Reporting Period(s) pursuant to section 95977.1(b)(1) or during the course of offset verification services for a Reporting Period(s). Once a Notice of Offset Verification Services has been submitted, the offset verification services must be completed for the applicable Reporting Period(s) before the Offset Project Operator or Authorized Project Designee may transfer the offset project to ARB or another Offset Project Registry. Once the offset verification services are completed for the applicable Reporting Period(s), the Offset Project Operator or Authorized Project Designee may transfer the offset project to ARB or another Offset Project Registry.

(p) Limitations for Listing Forest Offset Projects. Once a forest offset project has been issued registry offset credits pursuant to sections 95980 and 95980.1 or ARB offset credits pursuant to sections 95981 and 95981.1, no other offset project may be listed with a Project Area including any land within the previously listed geographic boundary of the previous offset project unless the previous offset project was terminated due to an unintentional reversal or unless otherwise specified in a Compliance Offset Protocol.

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

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

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(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 for each Reporting Period as defined in section

95802. Each Offset Project Data Report must cover a single Reporting Period. Reporting Periods must be contiguous; there must be no gaps in reporting once the first Reporting Period has commenced. If the Offset Project Operator or Authorized Project Designee fails to submit an Offset Project Data Report, then the Offset Project will be considered terminated and not eligible for ARB offset credits. An Offset Project Data Report may be submitted after the deadline identified in section 95976(d)(8), but before the end of the next Reporting Period, to maintain continuous reporting; however, no ARB offset credits will be issued for the GHG emission reduction or removal enhancements quantified and reported in the Offset Project Data Report pursuant to section 95976(d)(9). For projects developed under the Compliance Offset Protocol in section 95973(a)(2)(C)1., there may be one Offset Project Data Report submitted for each offset project and the Offset Project Data Report may cover up to a maximum of 12 months of data. The Offset Project Operator or Authorized Project Designee must submit an Offset Project Data Report to ARB or an Offset Project Registry within ~~24~~28 months of listing their offset project pursuant to section 95975 and must also meet all other applicable deadlines pertaining to submittal of the Offset Project Data Report. If the Offset Project Operator or Authorized Project Designee does not submit an Offset Project Data Report to ARB or an Offset Project Registry within 28 months of listing an offset project, then the Offset Project Operator or Authorized Project Designee must update the listing information in the Offset Project Data Report to reflect the most recent version of the Compliance Offset Protocol for that project type in order to remain eligible to be issued ARB offset credits. If an Offset Project Data Report that does not meet the 28 month deadline also fails to meet the deadline in section 95976(d)(8), an Offset Project Data Report covering the Reporting Period must be submitted using the most recent version of the Compliance Offset Protocol; however, no ARB offset credits will be issued for the GHG emission reductions or removal enhancements, pursuant to section 95976(d)(9). For forestry offset projects, when an Offset Project Data Report is not filed within the deadline specified in section 95976(d)(8), the values used for $AC_{onsite, y-1}$ and $BC_{onsite, y-1}$ in

the Offset Project Data Report for the following Reporting Period will be the $AC_{onsite, y}$ and $BC_{onsite, y}$ values reported in the untimely Offset Project Data Report for the preceding Reporting Period. The Offset Project Data Report shall contain the information required by the applicable version of the Compliance Offset Protocol for that offset project type as set forth in:

(1) Compliance Offset Protocol Ozone Depleting Substances Projects, October 20, 2011 and Compliance Offset Protocol Ozone Depleting Substances Projects, November 14, 2014;

(2) Compliance Offset Protocol Livestock Projects, October 20, 2011 and Compliance Offset Protocol Livestock Projects, November 14, 2014;

(3) Compliance Offset Protocol Urban Forest Projects, October 20, 2011;

(4) Compliance Offset Protocol U.S. Forest Projects, October 20, 2011, Compliance Offset Protocol U.S. Forest Projects, November 14, 2014, and Compliance Offset Protocol U.S. Forest Projects, June 25, 2015;

(5) Compliance Offset Protocol Mine Methane Capture Projects, April 25, 2014; and

(6) Compliance Offset Protocol Rice Cultivation Projects, June 25, 2015.

(7) 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 Compliance Offset Protocol] and all information required to be submitted to ARB in the Offset Project Data Report is true, accurate, and complete."

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

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(10) Each version of an Offset Project Data Report submitted to ARB or an Offset Project Registry must specify the version number and the date submitted.

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(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, or does not include a specific method for the data in question, for collecting or accounting for data in the event of missing data due to an unforeseen breakdown of gas or fuel analytical monitoring ~~data~~ equipment or other data collection systems.

(1) In the event of an unforeseen breakdown of offset project data monitoring equipment and gas or fuel flow monitoring devices required for the GHG emission reductions and GHG removal enhancement estimation, ARB may authorize an Offset Project Operator or Authorized Project Designee to use an interim data collection procedure if ARB determines that the Offset Project Operator or Authorized Project Designee has satisfactorily demonstrated that:

(A) The breakdown may result in a loss of more than 20 percent of the source's ~~gas or fuel~~ data for the year covered by an Offset Project Data Report;

(B) 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) The interim procedure will not remain in effect longer than is reasonably necessary for repair or replacement of the malfunctioning data monitoring equipment; and

(D) The request was submitted within 30 calendar days of the breakdown of the ~~gas or fuel analytical~~ data monitoring equipment.

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

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

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(b) Schedule for Verification of Non-Sequestration Offset Projects. The verification of GHG emission reductions for non-sequestration offset projects that produce greater than or equal to 25,000 metric tons of GHG reductions must be performed on a Reporting Period~~12-month rolling~~ basis and cover the Reporting Period for which the most recent Offset Project Data Report was submitted unless otherwise specified in a Compliance Offset Protocol. For Reporting Periods in which an Offset Project Data Report for a non-sequestration offset project shows that the offset project produced fewer than 25,000 metric tons of GHG reductions in a Reporting Period, the Offset Project Operator or Authorized Project Designee may choose to perform verification that covers two consecutive Reporting Periods, even if for the subsequent Reporting Period the offset project produced greater than or equal to 25,000 metric tons of GHG reductions. If an Offset Project Data Report results in zero GHG emission reductions, the Offset Project Operator or Authorized Project Designee may defer verification until the offset project produces an Offset Project Data Report that no longer results in zero GHG emission reductions.

(c) Schedule for Verification of Sequestration Offset Projects. An initial verification of GHG emission reductions and GHG removal enhancements for all sequestration offset projects must be performed following the first Reporting Period and cover one Reporting Period. After the first Reporting Period, verification must be conducted at least once every six years and may cover up to six Reporting Periods for which Offset Project Data Reports were submitted. After an initial verification with a Positive Offset Verification Statement, reforestation offset projects and urban forest offset projects that meet the requirements of the applicable Compliance Offset Protocol may defer the second verification for twelve years, but verification of Offset Project Data Reports must be performed at least once every six years thereafter. For offset projects that do not renew their crediting period, verification must still be conducted at least once

every six years for the remainder of the project life. However, after a successful verification of an Offset Project Data Report indicating that Actual Onsite Carbon Stocks (in $MTCO_2e$) are at least 25% greater than the Actual Onsite Carbon Stocks in the final Offset Project Data Report of the final crediting period, the next full offset verification service may be deferred for twelve years. An offset project that has deferred verification for twelve years must resume conducting a full verification at least once every six years if it receives an Adverse Offset Verification Statement.

(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 within eleven months after the conclusion of the Reporting Period for which offset verification services were performed, except for Reporting Periods for which verification is deferred in accordance with this section. If the Offset Verification Statement is not submitted to ARB or an Offset Project Registry by the verification deadline, the GHG reductions and GHG removal enhancements quantified and reported in the Offset Project Data Report are not eligible to be issued ARB offset credits or registry offset credits. The verification body must issue one Offset Verification Statement for each Offset Project Data Report that it verifies for the Offset Project Operator or Authorized Project Designee.

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

§ 95977.1. Requirements for Offset Verification Services.

(a) Rotation of Verification Bodies. An offset project shall not have more than any six out of nine consecutive Reporting Periods verified by the same verification body or offset verification team member(s), unless otherwise specified in section 95977.1(a)(1) or (a)(2). ~~An Offset Project Operator or Authorized Project Designee may contract with a previous verification body or offset verification team member(s) only if at least three consecutive Reporting Periods have been~~

~~verified by a different verification body or offset verification team member(s) before the previous verification body or offset verification team member(s) is selected again, unless otherwise specified in section 95977.1(a)(1) or (a)(2).~~ The rotation requirements in this section are applied between the Offset Project Operator, Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, if applicable, and the verification body and offset verification team member(s) on an offset project basis.

(1) For offset projects developed under the Compliance Offset Protocol in section 95973(a)(2)(C)(1.), the following shall apply: Neither a verification body nor offset verification team member may conduct offset verification services ~~for an Offset Project Operator, Authorized Project Designee, or any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee,~~ for more than any six out of nine consecutive offset projects developed ~~under the Compliance Offset Protocol in section 95973(a)(2)(C)1.~~ by any given Offset Project Operator, or developed on behalf of that Offset Project Operator by any Authorized Project Designee, or any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee. ~~After a verification body or offset verification team member(s) has conducted offset verification services for up to six consecutive offset projects developed under the Compliance Offset Protocol in section 95973(a)(2)(C)(1.) for an Offset Project Operator, Authorized Project Designee, or any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, the verification body or offset verification team member(s) may conduct offset verification services for the Offset Project Operator, Authorized Project Designee, or any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, only after the Offset Project Operator, Authorized Project Designee, or any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee, has had a minimum of three offset projects developed under the Compliance Offset Protocol in section~~

~~95973(a)(2)(C)(1.) verified by another verification body(ies) and offset verification team member(s).~~ For offset projects developed under the Compliance Offset Protocol in section 95973(a)(2)(C)(1.), the order of consecutive projects is determined by the project commencement dates. For this provision an offset project is defined by any activities reported in an Offset Project Data Report, and is applied to offset projects listed by the Offset Project Operator and Authorized Project Designee, if applicable.

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(3) All early action reporting periods for which regulatory verification was conducted for an early action offset project pursuant to ~~section 95990(f)~~the Program for Recognition of Early Action Offset Credits may count as one Reporting Period for the purposes of determining rotation of verification bodies and offset verification team members.

***

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

(1) Notice of Offset Verification Services for Offset Projects. Before offset verification services, as defined in section 95977.1(b)(3), may begin, the Offset Project Operator or Authorized Project Designee must submit the Offset Project Data Report to ARB or an Offset Project Registry, and the verification body must submit a Notice of Offset 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 ~~3~~10 calendar days after the Notice for Offset Verification Services is received by ARB and the Offset Project Registry and the conflict of interest self-evaluation is received by ARB or the Offset Project Registry.~~,~~ The verification body may not conduct the site visit until at least 30 calendar days after the Notice for Offset Verification Services is received by ARB and the Offset Project Registry and the conflict of interest self-evaluation is approved by ARB or the Offset Project Registry, or earlier, if the earlier site

visit date is approved by ARB in writing. The Notice of Offset Verification Services must include the following information:

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(3) Offset verification services must include the following:

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

1. Information to allow the offset verification team to develop a general understanding of offset project boundaries, operations, project baseline emissions, and ~~annual~~Reporting Period GHG reductions and GHG removal enhancements;

***

(D) Site Visits for Offset Projects. For a non-sequestration offset project, at least one accredited offset verifier in the offset verification team, including the offset project specific verifier, must make at least one site visit for each Reporting Period that an Offset Project Data Report is submitted, except for those non-sequestration offset projects for which the Offset Project Data Reports qualify for a two-year offset verification period pursuant to section 95977(b). In this case, at least one offset verifier in the offset verification team, including the offset project specific verifier, must make a site visit each time offset verification services are performed; offset verification services for non-sequestration offset projects would include one or two Reporting Periods, depending on whether verification is eligible to be deferred pursuant to section 95977(b). For projects using protocols in section 95973(a)(2)(C)1., 2., or 3., if the project is no longer in operation and all destruction devices, metering and monitoring equipment has been removed, the site visit can occur at the offices of the Offset Project Operator, or Authorized Project Designee. Such a site visit cannot be used for reducing the invalidation timeframe in section 95985. For a forest or urban forest offset project, at least one accredited offset

verifier in the offset verification team, including the offset project specific verifier, must make a site visit 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 Reporting Period of an offset project under a Compliance Offset Protocol and after the first Reporting Period for each renewed crediting period under a Compliance Offset Protocol. Any site visit performed under this section must be conducted after the Offset Project Operator or Authorized Project Designee submits its Offset Project Data Report to ARB or an Offset Project Registry. During the required verification ~~site visit~~, the offset verification team member(s) must conduct the following, and document or explain how each requirement was checked and fulfilled in the detailed verification report:

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

***

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

***

h. If the offset project is found by the offset verification team to not meet the requirements of section 95977.1(b)(3)(D)2.f., the offset project is ineligible to receive ARB offset credits or registry offset credits for some or all GHG reductions and GHG removal enhancements quantified and reported in the Offset Project Data Report.

~~i. The activities performed pursuant to sections 95977.1(b)(3)(D)(2.)(f.) through (b)(3)(D)(2.)(h.) may be included in a site visit or, alternatively, may be conducted as part of a desk review.~~

***

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

1. Use data checks to ensure that the appropriate methodologies and GHG emission factors have been applied in calculating the project baseline and ~~annual~~Reporting Period GHG emissions, project emissions, GHG reductions, and GHG removal enhancements calculations in the Compliance Offset Protocol;

***

(M) Offset Project Data Report Modifications. As a result of review by the offset verification team and prior to completion of an Offset Verification Statement, the Offset Project Operator or Authorized Project Designee must make any possible improvements and fix any correctable errors to the submitted Offset Project Data Report, and a revised Offset Project Data Report must be submitted to ARB or the Offset Project Registry. The revised Offset Project Data Report must include all components required in section 95976(d). If the Offset Project Operator or Authorized Project Designee does not make all possible improvements and fix any correctable errors to the Offset Project Data Report, the verification body must issue an Adverse Offset Verification Statement. The offset verification team shall use professional judgment in the determination of correctable errors, including whether differences are not errors but result from truncation or rounding. The

offset verification team must document in the issues log the source of any difference identified, including whether the difference results in a correctable error. Documentation for all Offset Project Data Report submittals must be retained by the Offset Project Operator or Authorized Project Designee for the length of time specified in section 95976(e)(2).

***

(R) ~~Completion of offset~~Offset verification services are not complete until ARB offset credits are issued for the GHG emission reductions and GHG removal enhancements reported in an Offset Project Data Report. Offset verification services must include:

1. Offset Verification Statement. ~~Upon~~ Prior to completion of the offset verification services conducted pursuant to section 95977.1(b)(3), the verification body must complete an Offset Verification Statement for each Offset Project Data Report for which offset verification services were conducted and provide it to the Offset Project Operator or Authorized Project Designee and ARB or the Offset Project Registry by the verification deadline pursuant to section 95977(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. The independent reviewer may not be the offset project specific verifier, and may not accompany the offset verification team on a site visit. The independent reviewer may conduct a separate site visit, if necessary.

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8. If ARB or the Offset Project Registry determines that the detailed verification report required pursuant to 95977.1(b)(3)(R)4.a. does not contain sufficient information to substantiate the attestations in

the Offset Verification Statement, then the verification body must submit a revised verification report and a revised Offset Verification Statement to ARB or the Offset Project Registry within 15 calendar days.

(S) Upon submission of the Offset Verification Statement to ARB or the Offset Project Registry, the Offset Project Data Report must be considered final and no further changes may be made by the Offset Project Operator or Authorized Project Designee ~~verification body~~ unless the Offset Project Registry or ARB requests any changes as part of their review. Once ARB offset credits are issued for the Offset Project Data Report, all offset verification requirements of this article shall be considered complete for the applicable Offset Project Data Report.

(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~~4) and section 95979(b)(~~4~~5), or an Offset Project Data Report that received a Positive Offset or Qualified Positive Offset Verification Statement fails an ARB audit, the Executive Officer may set aside the Positive Offset or Qualified Positive Offset Verification Statement submitted by the verification body and require the Offset Project Operator or Authorized Project designee to have the Offset Project Data Report re-verified by a different verification body within 90 calendar days of this finding.

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

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§ 95978. Offset Verifier and Verification Body Accreditation.

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(e) "Direct supervision," for purposes of this section, means daily, on-site, close contact with an ARB-accredited verifier acting as a supervisor to a technical

expert during a site visit, who is able to respond to the needs of the technical expert. During a site visit, ~~T~~the supervisor must be physically present, or within 4 hours travel time and available to respond to the needs of the technical expert.

***

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

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

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(b) "Member" for the purposes of this section means any employee or subcontractor of the verification body or related entities of the verification body. "Member" also includes any individual with majority equity share in the verification body or its related entities. "Related entity" for the purposes of this section means any direct parent company, direct subsidiary, or sister company. The potential for a conflict of interest must be deemed to be high where:

***

(2) Within the previous five years, any staff member of the verification body or any related entity or any member of the offset verification team has provided to the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) any of the following non-offset verification services:

***

(R) Any legal services; and

(S) Expert services to the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) or a legal representative for the purpose of advocating the Offset Project Operator's, Authorized Project Designee's, if applicable, and their technical consultant(s) interests in litigation or in a regulatory or

administrative proceeding or investigation, unless providing factual testimony.~~; and~~

~~(T) Third-party certification of a facility to meet the requirements set forth by the United Nations Environment Programme Ozone Secretariate's Technology and Assessment Panel (TEAP) for ozone depleting substances destruction.~~

~~"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) Within the previous three years, any staff member of the verification body or any related entity or any member of the offset verification team has provided to the ozone depleting substances destruction facility a third-party certification of a facility to meet the requirements set forth by the United Nations Environment Programme Ozone Secretariate's Technology and Assessment Panel (TEAP) for ozone depleting substances destruction.

(~~3~~4) The potential for conflict of interest will be deemed to be high when any member of the verification body provides any type of incentive to an Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) to secure an offset verification services contract.

(~~4~~5) The potential for a conflict of interest will also be deemed to be high where any member of the verification body has provided offset verification services for the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) except within the time periods in which the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) is allowed to use the same verification body as specified in section 95977.1(a).

(c) The potential for a conflict of interest must be deemed to be low where no potential for a conflict of interest is found under section 95979(b) and any non-offset verification services provided by any member of the verification body to the Offset Project Operator, Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee within the last five years are valued at less than 20 percent of the fee for the proposed offset verification, except where medium conflict of interest related to personal, employment, or family relationships is identified pursuant to section 95979(d).

(d) The potential for a conflict of interest must be deemed to be medium where the potential for a conflict of interest is not deemed to be either high or low as specified in sections 95979(b) and 95979(c), or where there are any instances of personal, employment, or familial relationships between the verification body and management or employees of the Offset Project Operator or~~,~~ Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee and when a conflict of interest self-evaluation is submitted pursuant to section 95979(g). For purposes of section 95979 only, "employment" means the condition of having paid work documented in a W-2 form. If a verification body identifies a medium potential for conflict of interest and intends to provide offset verification services for the Offset Project Operator, Authorized Project Designee, if applicable, and any technical consultant(s) used by the Offset Project Operator or Authorized Project Designee for an offset project listed with ARB or an Offset Project Registry, the verification body must submit, in addition to the submittal requirements specified in section 95979(e), a plan to avoid, neutralize, or mitigate the potential conflict of interest situation. At a minimum, the conflict of interest mitigation plan must include:

***

(e) Conflict of Interest Submittal Requirements for Accredited Verification Bodies. Before providing any offset verification services, the verification body must submit to the Offset Project Operator, and Authorized Project Designee, if applicable, ARB and the Offset Project Registry, a self-evaluation of the potential

for any conflict of interest that the verification body, its staff, its related entities, or any subcontractors performing offset verification services may have with the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) for which it will perform offset verification services. Offset verification services shall not commence prior to approval of the conflict of interest self-evaluation by ARB or the Offset Project Registry pursuant to section 95979(f). The submittal must include the following:

***

(3) Identification of whether any member of the offset verification team or related entity has engaged in any non-offset verification services of any nature with the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) either within or outside California during the previous five years. If non-offset verification services have previously been provided, the following information must also be submitted:

***

(D) A list of names of the staff that would perform offset verification services for the Offset Project Operator, and Authorized Project Designee, if applicable, and a description of any instances of personal, employment, or family relationships with management or employees of the Offset Project Operator, Authorized Project Designee, if applicable, and their technical consultant(s) that potentially represent a conflict of interest;

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

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§ 95980. Issuance of Registry Offset Credits.

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(c) Determination for Timing and Duration of Initial Crediting Periods for Offset Projects Submitted Through an Offset Project Registry. The initial crediting

period will begin with the date that the first verified GHG emission reductions and GHG removal enhancements occur, according to the first Positive Offset or Qualified Positive Offset Verification Statement that is received by an Offset Project Registry, unless otherwise specified in the applicable Compliance Offset Protocol. An early action offset project that ~~transitions~~transitioned pursuant to the Program for Recognition of Early Action Offset Credits ~~section 95990(k) will begin~~ is considered to have begun its initial crediting period on the date that the first verified GHG emission reductions and GHG removal enhancements under a Compliance Offset Protocol took place according to the first Positive Offset or Qualified Positive Offset Verification Statement that was received by ARB ~~pursuant to section 95990(k)(2).~~

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

§ 95980.1 Process for Issuance of Registry Offset Credits.

(a) An Offset Project Registry may issue a registry offset credit that meets the requirements of sections 95980(a) and (b) to an Offset Project Operator, Authorized Project Designee, or any other third party authorized by the Offset Project Operator or Authorized Project Designee to receive registry offset credits, no later than 15 calendar days after an Offset Project Registry makes a determination pursuant to section 95980(b).

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

§ 95981. Issuance of ARB Offset Credits.

(a) One ARB offset credit, which represents one metric ton of CO_2e for a direct GHG emission reduction or direct GHG removal enhancement, will be issued only for a GHG emission reduction or GHG removal enhancement that occurs during a

Reporting Period. One ARB offset credit will be issued for each metric ton of CO_2e only if:

***

(2) The GHG emission reductions and GHG removal enhancements were issued a Positive Offset or Qualified Positive Offset Verification Statement pursuant to sections 95977.1 and 95977.2; ~~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 95980.1, if the offset project was submitted for listing with an Offset Project Registry, or for which ARB offset credits would be issued pursuant to section 95981.1~~.~~; and

(4) The issued ARB offset credits would not immediately be subject to invalidation pursuant to sections 95985(c)(1) and 95985(c)(3).

(b) Requirements for Offset Projects Submitted Through an Offset Project Registry Seeking Issuance of ARB Offset Credits. 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:

***

(5) The Offset Project Operator, or Authorized Project Designee, if applicable, must submit a request for issuance of ARB offset credits to ARB for each Offset Project Data Report for which they are seeking issuance of ARB offset credits~~.~~

~~(A) If the ARB offset credits are only being issued into the Holding Account that belongs to the Offset Project Operator, the Authorized Project Designee may submit the request for issuance of ARB offset credits to ARB. If the ARB offset credits will be issued into any other Holding~~

~~Account(s) other than the Holding Account that belongs to the Offset Project Operator, only the Offset Project Operator may submit the request for issuance of ARB offset credits to ARB~~

~~(B) The request for issuance of ARB offset credits must~~ identifying which Holding Accounts the ARB offset credits should be placed into and how many ARB offset credits will be placed into each Holding Account. ~~Consistent with section 95974, t~~The Offset Project Operator or Authorized Project Designee may request that ARB offset credits are placed into the Holding Account of ~~the Authorized Project Designee, or another third~~ any party not prohibited to hold compliance instruments under this Article. Any party receiving ARB offset credits at the time of ARB offset credit issuance must have a tracking system account with ARB.

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(c) ARB will determine whether the GHG emission reductions and GHG removal enhancements meet the requirements of ~~section 95981(a)~~this article and the applicable Compliance Offset Protocol, 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 sections 95977, 95977.1, and 95977.2 within 45 calendar days of receiving complete and accurate information.

***

(e) 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 and GHG removal enhancements occur, according to the first Positive Offset or Qualified Positive Offset Verification Statement that is received by ARB, unless otherwise specified in a Compliance Offset Protocol. An early action offset project that ~~transitions~~transitioned pursuant to the Program for Recognition of Early Action Offset Credits ~~section 95990(k)~~ is considered to have begun~~begin~~ its initial crediting period on the date that the first verified GHG emission reductions and GHG removal enhancements under a Compliance Offset Protocol took place

according to the first Positive Offset or Qualified Positive Offset Verification Statement that was received by ARB~~pursuant to section 95990(k)(2)~~.

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

§ 95981.1. Process for Issuance of ARB Offset Credits.

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(e) A registry offset credit issued pursuant to section 95980.1(a) must be removed or cancelled by the Offset Project Registry within 10 calendar days ~~of~~after ARB issues an ARB offset credit pursuant to this section ~~notification~~, such that the registry offset credit is no longer available for transaction on the Offset Project Registry system. ~~Registry offset credits must be removed or cancelled by the Offset Project Registry before ARB issues an ARB offset credit pursuant to this section.~~ The Offset Project Registry must provide proof to ARB that the registry offset credits have been permanently removed or cancelled from the registry system.

***

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

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§ 95983. Forestry Offset Reversals.

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(b) Unintentional Reversals. If there has been an unintentional reversal, the Offset Project Operator or Authorized Project Designee 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 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 completed verified estimate of current carbon stocks within the offset project boundary within ~~one year~~23 months of the

discovery of the unintentional reversal. To determine the verified estimate of current carbon stocks a full ~~regulatory~~offset verification must be conducted pursuant to sections 95977 through 95978, including a site visit. The verified estimate may be submitted as a separate offset verification services, or incorporated into a chapter of the detailed verification report submitted pursuant to section 95977.1 when offset verification services are conducted for an Offset Project Data Report. After an unintentional reversal, the Offset Project Operator or Authorized Project Designee does not need to submit an Offset Project Data Report until the required verified estimate of current carbon stocks within the offset project boundary is completed.

(2) If ARB determines that there has been an unintentional reversal, and ARB offset credits have been issued to the offset project, ARB will retire a quantity of ARB offset credits from the Forest Buffer Account according to section 95983(b)(2)(A) or (B), as applicable.

(A) If the forest project came into the program directly under a Compliance Offset Protocol and did not transition from an Early Action Offset Program, ARB will retire ARB offset credits in the amount of metric tons CO_2e reversed for ~~each~~all Reporting Periods.

(B) If the forest project transitioned into the program originally from an Early Action Offset Program, ARB will retire ARB offset credits from the Forest Buffer Account according to the following equation, calculated for ~~each~~all Reporting Periods, rounded up to the nearest whole metric ton CO_2e:

$$ARB_{Retire} = \frac{ARB_{Credits}}{ARB_{Credits} + EAOP_{Credits}} \times Reversal$$

Where:

"ARB_{Retire}" is the number of ARB offset credits that must be retired from the ARB Forest Buffer Account to compensate for the unintentional reversal for ~~the~~all Reporting Periods;

"$ARB_{Credits}$" is the total number of ARB offset credits issued to the forest project for ~~the~~all Reporting Periods, including any ARB offset credits that were issued for early action and any that were placed into the Forest Buffer Account for ~~the~~all Reporting Periods;

"$EAOP_{Credits}$" is the total number of early action offset credits issued to the forest project by the Early Action Offset Program for ~~the~~all Reporting Periods, including any voluntary offset credits placed into the Early Action Offset Program's buffer account for forest projects that were not transferred to ARB's Forest Buffer Account, but excluding any early action offset credits that were issued ARB offset credits; and

"Reversal" is the total metric tons of CO_2e reversed for ~~the~~all Reporting Periods.

(c) Intentional Reversals. Requirements for intentional reversals are as follows:

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(2) Within one year of 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 completed verified estimate of current carbon stocks within the offset project boundary. To determine the verified estimate of current carbon stocks a full ~~regulatory~~offset verification must be conducted pursuant to sections 95977 through 95978, including a site visit. The verified estimate may be submitted as a separate offset verification services, or incorporated into a chapter of the detailed verification report submitted pursuant to section 95977.1 when offset verification services are conducted for an Offset Project Data Report.

(3) If an intentional reversal occurs from a forest offset project, and ARB offset credits have been issued to the offset project, the current or most recent (in the case of an offset project after the final crediting period), forest owner(s) must submit to ARB for placement in the Retirement Account a quantity of valid ARB offset credits or other approved compliance instruments pursuant

to subarticle 4 within six months of notification by ARB in the amount determined pursuant to sections 95983(c)(3)(A) or (B), as applicable:

(A) If the forest project came into the program directly under a Compliance Offset Protocol and did not transition from an Early Action Offset Program, the forest owner must turn in valid compliance instruments in the amount of metric tons CO_2e reversed for ~~each~~all Reporting Period~~s~~.

(B) If the forest project transitioned into the program originally from an Early Action Offset Program, the forest owner must turn in valid compliance instruments according to the following equation, calculated for ~~each~~all Reporting Period~~s~~, rounded up to the nearest metric ton CO_2e:

$$FO_{Replace} = \frac{ARB_{Credits}}{ARB_{Credits} + EAOP_{Credits}} \times Reversal$$

Where:

"$FO_{Replace}$" is the number of valid compliance instruments that the forest owner must turn in to compensate for the intentional reversal for ~~the~~all Reporting Period~~s~~;

"$ARB_{Credits}$" is the total number of ARB offset credits issued to the forest project for ~~the~~all Reporting Period~~s~~, including any ARB offset credits that were issued for early action and any that were placed into the Forest Buffer Account for ~~the~~all Reporting Period~~s~~;

"$EAOP_{Credits}$" is the total number of early action offset credits issued to the forest project by the Early Action Offset Program for ~~the~~all Reporting Period~~s~~, including any voluntary offset credits placed into the Early Action Offset Program's buffer account for forest projects that were not transferred to ARB's Forest Buffer Account, but excluding any early action offset credits that were issued ARB offset credits; and

"Reversal" is the total metric tons of CO_2e reversed for ~~the Offset Project Data Report year~~all Reporting Periods.

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(4) Early Project Terminations. If a~~n early~~ project termination, as defined in the Compliance Offset Protocol in section 95973(a)(2)(C)(4.), occurs from a compliance or early action forest offset project, and ARB offset credits have been issued to the offset project, the current or most recent (in the case of an offset project after the final crediting period), forest owner(s) must submit to ARB for placement in the Retirement Account a quantity of valid ARB offset credits or other approved compliance instruments pursuant to subarticle 4 in the amount equal to the number of ARB offset credits issued to the offset project for each Reporting Period, except for improved forest management forest offset projects. If the project is an improved forest management forest offset project, the amount of metric tons CO_2e reversed must be multiplied by the compensation rate in the Compliance Offset Protocol in section 95973(a)(2)(C)4.~~determined pursuant to sections 95983(c)(4)(A), (B), or (C), whichever applies, for each Offset Project Data Report year:~~

~~(A) If the forest project came into the program directly under a Compliance Offset Protocol and did not transition from an Early Action Offset Program, the forest owner must turn in valid compliance instruments to cover the number of ARB offset credits issued to the offset project for each Reporting Period, except for improved forest management projects. If the project is an improved forest management project, the amount of metric tons CO_2e reversed must be multiplied by the compensation rate in the Compliance Offset Protocol in section 95973(a)(2)(C)(4.).~~

~~(B) If the forest project transitioned into the program originally from an Early Action Offset Program, the forest owner must turn in valid compliance instruments according to the following equation, calculated~~

~~for each Reporting Period, except for improved forest management projects:~~

$$\cancel{FO_{Replace}} = \frac{\cancel{ARB_{Credits}}}{\cancel{ARB_{Credits} + EAOP_{Credits}}} \times \cancel{Reversal}$$

~~Where:~~

~~"$FO_{Replace}$" is the number of valid compliance instruments that the forest owner must turn in to compensate for the early project termination for each Reporting Period:~~

~~"$ARB_{Credits}$" is the total number of ARB offset credits issued to the forest project for the Reporting Period, including any ARB offset credits that were issued for early action and any that were placed into the Forest Buffer Account for the Reporting Period;~~

~~"$EAOP_{Credits}$" is the total number of early action offset credits issued to the forest project by the Early Action Offset Program for the Reporting Period, including any voluntary offset credits placed into the Early Action Offset Program's buffer account for forest projects that were not transferred to ARB's Forest Buffer Account, but excluding any early action offset credits that were issued ARB offset credits; and~~

~~"Reversal" is the total metric tons of CO_2e reversed for the Offset Project Data Report year.~~

~~(C) For an improved forest management project that transitioned into the program originally from an Early Action Offset Program, the forest owner must replace ARB offset credits in the amount calculated pursuant to section 95983(c)(4)(B) multiplied by the compensation rate in the Compliance Offset Protocol in section 95973(a)(2)(C)4..~~

(~~D~~A) ARB will notify the forest owner of how many ARB offset credits must be replaced with valid compliance instruments.

(~~E~~B) The forest owner must submit to ARB for placement in the Retirement Account a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4 for each ARB offset credit required to be replaced within six months of ARB's retirement.

(~~F~~C) If the forest owner does not submit valid ARB offset credits or other approved compliance instruments to ARB in the amount required pursuant to section~~s~~ 95983(c)(4)~~(A) or (B)~~ within six months of ARB's retirement, ARB will retire a quantity of ARB offset credits equal to the difference between the number of metric tons of CO_2e determined pursuant to section~~s~~ 95983(c)(4)~~(A) or (B)~~ and the number of retired approved compliance instruments from the Forest Buffer Account and they will be subject to enforcement action and each ARB offset credit retired from the Forest Buffer Account will constitute a separate violation pursuant to section 96014.

(d) Disposition of Forest Sequestration Projects After a Reversal. If a reversal lowers the forest offset project's actual standing live carbon stocks below its project baseline standing live carbon stocks, the forest offset project will be terminated by ARB or an Offset Project Registry.

(1) If the forest offset project is terminated due to an unintentional reversal, ARB will retire from the Forest Buffer Account a quantity of ARB offset credits equal to the total number of ARB offset credits issued pursuant to section 95981, and where applicable, all ARB offset credits issued to the offset project pursuant to ~~section 95990(i) for early action~~the Program for Recognition of Early Action Offset Credits, over the preceding 100 years.

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

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§ 95985. Invalidation of ARB Offset Credits.

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

(1) Within eight years of issuance of an ARB offset credit, if the ARB offset credit is issued for early action pursuant to ~~section 95990(h)~~the Program for Recognition of Early Action Offset Credits, or within eight years of the date that corresponds to the end of the Reporting Period for which the ARB offset credit is issued, if the ARB offset credit is issued pursuant to section 95981.1, unless one of the following requirements is met:

(A) The Offset Project Operator or Authorized Project Designee for an offset project developed under the Compliance Offset Protocol in section 95973(a)(2)(C)1. or an early action quantification methodology approved pursuant to the Program for Recognition of Early Action Offset Credits ~~section 95990(c)(5)~~ for the same project type, does all of the following:

1. Has a different verification body that has not verified the Offset Project Data Report for the issuance of ARB offset credits, and meets the requirements for conflict of interest pursuant to section 95979 and rotation of verification bodies pursuant to section 95977.1(a), conduct a second independent regulatory verification pursuant to sections 95977 through 95978, except for section 95977.1(b)(3)(M), for the same Offset Project Data Report, or as provided in sections 95990(~~l~~a)(3)(B) and (~~l~~a)(4) for projects developed under an approved early action quantification methodology. Although the requirements in section 95977.1(b)(3)(M) do not need to be met under this section, any misreporting, discrepancies, and omissions found during the full offset verification services must be included in the offset material misstatement calculation performed pursuant to section 95977.1(b)(3)(Q). If minor correctible errors that do not result in an offset material misstatement are found during the full offset

verification services and the verification body does not identify any other nonconformance that would result in an adverse Offset Verification Statement, the verification body must issue a Qualified Positive Offset Verification Statement and identify the correctable errors on the Offset Verification Statement; ~~and~~

2. The second regulatory verification must be completed within three years of the issuance of the ARB offset credits through the submittal of an Offset Verification Statement pursuant to section 95977.1(b)(3)(R)1., and the Offset Project Operator or Authorized Project Designee must receive a Positive or Qualified Positive Offset Verification Statement from the new verification body for the same Offset Project Data Report, or as provided in section 95990(~~l~~a)(3)(B) and (~~l~~a)(4) for projects developed under an approved early action quantification methodology.

***

3. If the requirements in sections 95985(b)(1)(A)1. and 2. are met, the ARB offset credits issued under the Offset Project Data Report may only be subject to invalidation according to the following timeframes:

***

b. Within three years of the date for which ARB offset credits are issued, if the ARB offset credits are issued pursuant to ~~section 95990(h)~~the Program for Recognition of Early Action Offset Credits; or

(B) The Offset Project Operator or Authorized Project Designee for an offset project developed under one of the protocols listed in section 95985(b)(1)(B)5. does the following:

1. Has a subsequent Offset Project Data Report verified pursuant to sections 95977 through 95978 by a different verification body than the one which conducted the most recent verification, and that meets the requirements for conflict of interest pursuant to section

95979 and rotation of verification bodies pursuant to section 95977.1(a), or as provided in section 95990(~~l~~a)(3)(A) for projects developed under an approved early action quantification methodology; and

2. The verification conducted by a different verification body for the subsequent Offset Project Data Report and used to reduce the invalidation timeframe of any ARB offset credits must be completed through the submittal of an Offset Verification Statement pursuant to section 95977.1(b)(3)(R)1. within, at a maximum, three years from the date that corresponds to the last time ARB offset credits were issued to the offset project, or as provided in section 95990(~~l~~a)(3)(A) for projects developed under an approved early action quantification methodology. The verification of the subsequent Offset Project Data Report must result in a Positive or Qualified Positive Offset Verification Statement from the new verification body.

3. If the requirements in sections 95985(b)(1)(B)1. and 2. are met, the ARB offset credits issued pursuant to section 95981 for no more than three Reporting Periods prior to the Reporting Period for which the subsequent Offset Project Data Report was verified by a different verification body, or the ARB offset credits issued pursuant to the Program for Recognition of Early Action Offset Credits for any number of Early Action Reporting Periods prior to the Reporting Period for which the subsequent Offset Project Data Report was verified by a different verification body, may only be subject to invalidation according to the following timeframes:

***

b. Within three years of the date for which ARB offset credits are issued, if the ARB offset credits are issued pursuant to ~~section 95990(h)~~the Program for Recognition of Early Action Offset Credits.

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

   a. The Offset Project Operator or Authorized Project Designee has a different verification body than has verified the ~~last~~ Offset Project Data Reports ~~of the crediting period for the issuance of ARB offset credits for the Reporting Period~~ identified in section 95985(b)(1)(B)4. and that meets the requirements for conflict of interest pursuant to section 95979 and rotation of verification bodies pursuant to section 95977.1(a) conduct a second independent regulatory verification pursuant to sections 95977 through 95978, except for section 95977.1(b)(3)(M), for the last Offset Project Data Report of the crediting period. Although the requirements in section 95977.1(b)(3)(M) do not need to be met under this section, any misreporting, discrepancies, and omissions found during the full offset verification services must be included in the offset material misstatement calculation performed pursuant to section 95977.1(b)(3)(Q); and

***

5. The provisions in sections 95985(b)(1)(B)1. through 4. apply if an offset project is developed under one of the following Compliance Offset Protocols, and the provisions in sections 95985(b)(1)(B)1. through 3. apply for any early action quantification methodologies approved pursuant to the Program for Recognition of Early Action

Offset Credits~~section 95990(c)(5)~~ for the same project types, as well as any applicable provisions in section 95990(~~l~~a)(3)(A):

***

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

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

***

(B) If ARB determines that an overstatement has occurred pursuant to section 95985(c)(1), ARB shall determine the amount of ARB offset credits that correspond to the overstatement using the following equation, rounded to the nearest whole ton:

If: $I_{ARBOC} > R_{OPDR} \times 1.05$

Then: $O_R = I_{ARBOC} - R_{OPDR}$

Where:

"O_R" is the amount of overstated GHG reductions and GHG removal enhancements for the applicable Offset Project Data Report, rounded to the nearest whole ton;

"I_{ARBOC}" is the number of ARB offset credits issued under the applicable Offset Project Data Report pursuant to section 95981.1 or ~~95990(i)~~the Program for Recognition of Early Action Offset Credits;

"R_{OPDR}" is the number of GHG reductions and GHG removal enhancements determined by ARB pursuant to section 95985(c)(1) for the applicable Offset Project Data Report;

(2) The offset project activity and implementation of the offset project was not in accordance with all local, regional, state, ~~or~~and national environmental and health and safety laws and regulations that apply based on the offset project

location and that directly apply to the offset project, including as specified in the applicable Compliance Offset Protocol, as determined pursuant to section 95973(b), during the Reporting Period for which the ARB offset credit was issued~~; or~~.

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

1. ARB will determine the actual GHG reductions and GHG removal enhancements achieved by the offset project for the applicable Reporting Period based on, at a minimum, the following information:

a. The GHG sources, GHG sinks, and GHG reservoirs within the offset project boundary for that Reporting Period;

b. Any previous Offset Project Data Reports submitted by the Offset Project Operator or Authorized Project Designee, and the Offset Verification Statements rendered for those reports; and

c. Any information relating to the regulatory compliance of the offset project provided by the Offset Project Operator, Authorized Project Designee, or regulatory oversight body.

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

a. The applicable Compliance Offset Protocol;

b. In the event of missing data, ARB will rely on the missing data provisions pursuant to section 95976, and, if applicable, the Compliance Offset Protocol; and

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

3. ARB shall determine how many GHG emission reductions and GHG removal enhancements were achieved by the offset project for the applicable Reporting Period using the best information available, including the information in section 95985(c)(2)(A)(1.) and methods in section 95985(c)(2)(A)(2.), as applicable.

4. If ARB determines that an offset project is out of regulatory compliance pursuant to section 95985(c)(2), then ARB shall determine the amount of overstated ARB offset credits, rounded to the nearest whole number, that correspond to the time period that the offset project is determined to be out of regulatory compliance pursuant to section 95973(b)(1)(E). All offset credits corresponding to this time period shall be deemed ineligible for crediting, and therefore any offset credits corresponding to this time period are subject to invalidation.

(B) For offset projects using a protocol from sections 95973(a)(2)(C)1., 3., 4., or 6., if ARB finds that the offset project is out of regulatory compliance, then ARB shall determine that all ARB offset credits issued for the applicable Reporting Period are subject to invalidation; or

***

(e) Identification of Affected Parties. If ARB makes an initial determination that one of the circumstances listed in section 95985(c) has occurred, ARB will identify the following parties:

***

(3) The current, or most recent (in the case of an offset project after the final crediting period), Offset Project Operator and Authorized Project Designee, and, for forest offset projects the current, or most recent (in the case of an offset project after the final crediting period), Forest Owner(s).

***

(g) Removal of Invalidated ARB Offset Credits from Holding, ~~and/or~~ Compliance, and/or Forest Buffer Accounts. If the Executive Officer makes a final determination pursuant to section 95985(f) that an ARB offset credit is invalid, then:

(1) ARB offset credits will be removed from any Holding, ~~or~~ Compliance, or Forest Buffer Account, as follows;

(A) If an ARB offset credit is determined to be invalid due to the circumstance listed in section 95985(c)(1) or 95985(c)(2)(A), then:

1. ARB will determine which ARB offset credits will be removed from the Compliance and/or Holding Accounts of each party identified in section 95985(e)(1) according to the following equation, truncated to the nearest whole ton:

$$H_{ARBOC} = \left| \frac{TOT_{Holding}}{I_{ARBOC}} \right| O_R$$

Where:

"O_R" is the amount of overstated GHG reductions and GHG removal enhancements for the applicable Offset Project Data Report calculated pursuant to section 95985(c)(1) or (c)(2)(A);

"I_{ARBOC}" is the number of ARB offset credits issued under the applicable Offset Project Data Report pursuant to section 95981.1 or ~~95990(i)~~the Program for Recognition of Early Action Offset Credits;

"$TOT_{Holding}$" is the total number of ARB offset credits currently being held in a Compliance and/or Holding Account by each party identified in section 95985(e)(1) for the applicable Offset Project Data Report; and

"H_{ARBOC}" is the total number of ARB offset credits, rounded to the nearest whole ton, that will be removed from the Holding and/or Compliance Account of each party identified in section 95985(e)(1).

***

3. ARB will determine the quantity of ARB offset credits issued under the applicable Offset Project Data Report, for all projects that contribute to the Forest Buffer Account, in the amount calculated pursuant to section 95985(c)(1) or (c)(2)(A) multiplied by the project's reversal risk rating and remove that quantity of ARB offset credits from the Forest Buffer Account.

(B) If an ARB offset credit is determined to be invalid due to the circumstances listed in sections 95985(c)(2)(B) or (c)(3), ARB will remove all ARB offset credits issued under the applicable Offset Project Data Report from any Holding and/or Compliance Account of the parties identified in section 95985(e)(1), and from the Forest Buffer Account.

(2) The parties identified pursuant to section 95985(e) will be notified of which serial numbers were removed from any Compliance, ~~and/or~~ Holding, and/or Forest Buffer Accounts.

(3) Any approved program for linkage pursuant to subarticle 12 will be notified of which serial numbers were removed from any Compliance, ~~and/or~~ Holding, and/or Forest Buffer Accounts.

(h) Requirements for Replacement of ARB Offset Credits.

(1) If an ARB offset credit that is issued to a non-sequestration offset project or an urban forest offset project, or that is issued to a U.S. forest offset project on or after July 1, 2014, and is in the Retirement Account, and it is determined to be invalid pursuant to section 95985(f) for only the circumstances listed in section 95985(c)(1) or (c)(2)(A), then:

(A) Each party identified in section 95985(e)(2) must replace ARB offset credits in the amount calculated for the individual party according to the following equation, truncated to the nearest whole ton:

$$R_{ARBOC} = \left| \frac{TOT_{Retired}}{I_{ARBOC}} \right| O_R$$

Where:

"R_{ARBOC}" is the calculated total number of retired ARB offset credits for the applicable Offset Project Data Report, rounded to the nearest whole ton, that must be replaced by each individual party identified in section 95985(e)(2);

"$TOT_{Retired}$" is the total number of ARB offset credits for which ARB transferred the ARB offset credits from the applicable Offset Project Data Report into the Retirement Account for the individual party specified in section 95985(e)(2);

"I_{ARBOC}" is the number of ARB offset credits issued under the applicable Offset Project Data Report pursuant to section 95981.1 or ~~95990(i)~~the Program for Recognition of Early Action Offset Credits; and

"O_R" is the amount of overstated GHG reductions and GHG removal enhancements calculated pursuant to section 95985(c)(1) or (c)(2)(A) for the applicable Offset Project Data Report.

(B) Each party identified in section 95985(e)(2) must replace ARB offset credits in the amount calculated pursuant to section 95985(h)(1)(A) with valid ARB offset credits or other approved compliance instruments pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(g)(2).

(C) If each party identified in section 95985(e)(2) does not replace each invalid ARB offset credit in the amount calculated pursuant to section 95985(h)(1)(A) within six months of notice of invalidation pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that party pursuant to section 96014.

1. If the party identified in section 95985(e)(2) is no longer in business pursuant to section 95101(h)(2) of MRR, ARB will require the Offset Project Operator identified in section 95985(e)(3) to replace each invalidated ARB offset credit and will notify the Offset Project Operator that they must replace them.

***

(2) If an ARB offset credit that is issued to a non-sequestration offset project or an urban forest project, or that is issued to a U.S. forest offset project on or after July 1, 2014, and is in the Retirement Account, and it is determined to be invalid pursuant to section 95985(f) for any circumstance listed in sections 95985(c)(2)(B) and (c)(3), then:

***

(B) If the party identified in section 95985(e)(2) does not replace each invalid ARB offset credit within six months of the notice of invalidation

pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that party pursuant to section 96014.

1. If the party identified in section 95985(e)(2) is no longer in business pursuant to section 95101(h)(2) of MRR ARB will require the Offset Project Operator identified in section 95985(e)(3) to replace each invalidated ARB offset credit and will notify the Offset Project Operator that they must replace them.

***

(3) The Offset Project Operator, identified in section 95985(e)(3), of an offset project that had ARB offset credits removed from the Forest Buffer Account pursuant to section 95985(g)(1)(A)3. or (g)(1)(B) must replace 50 percent of the ARB offset credits removed from the Forest Buffer Account, rounding up to the next whole number, with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(g)(2). If the Offset Project Operator does not replace the required number of ARB offset credits within six months of notification by ARB pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that Offset Project Operator pursuant to section 96014.

(i) Requirements for Replacement of ARB Offset Credits for U.S. Forest Offset Projects Issued on or prior to July 1, 2014.

(1) If an ARB offset credit that is issued on or prior to July 1, 2014 is in the Retirement Account from a U.S. forest offset project and it is determined to be invalid pursuant to section 95985(f) for only the circumstance listed in section 95985(c)(1), then:

(A) The Forest Owner identified in section 95985(e)(3) must replace ARB offset credits in the amount calculated according to the following equation, truncated to the nearest whole ton:

$$RF_{ARBOC} = \left|\frac{TF_{Retired}}{IF_{ARBOC}}\right| OF_R$$

Where:

"RF_{ARBOC}" is the total number of retired ARB offset credits for the applicable U.S. forest offset project's Offset Project Data Report, rounded to the nearest whole ton, that must be replaced by the Forest Owner;

"$TF_{Retired}$" is the total number of ARB offset credits issued for the applicable U.S. forest offset project's Offset Project Data Report for which ARB transferred any ARB offset credits from into the Retirement Account;

"IF_{ARBOC}" is the number of ARB offset credits issued under the applicable Offset Project Data Report for the U.S. forest offset project pursuant to section 95981.1 or ~~95990(i)~~the Program for Recognition of Early Action Offset Credits; and

"OF_R" is the amount of overstated GHG reductions and GHG removal enhancements calculated pursuant to section 95985(c)(1) for the U.S. forest offset project for the applicable Offset Project Data Report.

***

(2) If an ARB offset credit issued on or prior to July 1, 2014 in the Retirement Account from a U.S. forest offset project is determined to be invalid pursuant to section 95985(f) for any circumstance listed in sections 95985(c)(2)(B) and (c)(3):

(A) The Forest Owner identified in section 95985(e)(3) must replace each ARB offset credit transferred by ARB into the Retirement Account for the applicable Offset Project Data Report with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4,

within six months of notification by ARB pursuant to section 95985(g)(2).

***

(3) The Offset Project Operator identified in section 95985(e)(3) of an offset project that had ARB offset credits removed from the Forest Buffer Account pursuant to section 95985(g)(1)(A)3. or (g)(1)(B) must replace 50 percent of the ARB offset credits removed from the Forest Buffer Account, rounding up to the next whole number, with a valid ARB offset credit or another approved compliance instrument pursuant to subarticle 4, within six months of notification by ARB pursuant to section 95985(g)(2). If the Offset Project Operator does not replace the required number of ARB offset credit within six months of notification by ARB pursuant to section 95985(g)(2), each unreplaced invalidated ARB offset credit will constitute a violation for that Offset Project Operator pursuant to section 96014.

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

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§ 95987. Offset Project Registry Requirements.

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(b) The Offset Project Registry must make the following information publicly available for each offset project developed under a Compliance Offset Protocol:

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(2) Within 10 working days of the Offset Project Registry making a determination of registry offset credit issuance pursuant to section 95980(b):

(A) ~~Annual~~Reporting Period verified project baseline emissions;

(B) ~~Annual~~Reporting Period verified GHG reductions and GHG removal enhancements achieved by the offset project;

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NOTE: Authority cited: Sections 38510, 38560, 38562, 38570, 38571, 38580, 39600 and 39601, Health and Safety Code.

Reference: Sections 38530, 38560.5, 38564, 38565, 38570 and 39600, Health and Safety Code.

***

§ 95990. Recognition of Early Action Offset Credits.

(a) ~~Approval of Early Action Offset Programs. To qualify as an Early Action Offset Program, either the Executive Officer 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 early action offset credits it issues under the quantification methodologies listed pursuant to section 95990(c)(5) at all times; and~~

~~(C) A permanent repository of ownership information on all transactions involving all early action offset credits that have been or will be issued for any early action offset project until they are retired or cancelled.~~

~~(3) The program's primary business (or that of the designated subdivision, if the Early Action Offset Program applicant designates a subdivision to provide services as an Early Action Offset Program pursuant to this section) is operating a registry for issuing 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 registered on its own registry system and developed under protocols approved pursuant 95990(c)(5). The Early Action Offset Program applicant may act as an offset project consultant for early action offset projects as long as these are registered with an~~

~~Early Action Offset Program or an Offset Project Registry unaffiliated with the applicant;~~

~~(B) The applicant may not act as a verification body and provide offset verification services pursuant to section 95990(f);~~

~~(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; and~~

~~(D) The applicant's primary incorporation or other business information and primary place of business, or the primary place of business of the designated subdivision, if the applicant designates a subdivision to be an Early Action Offset Program pursuant to this section, must be in the United States of America.~~

~~(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 of perjury under 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 or between January 1, 2005 and December 31, 2015 for projects developed under any of the offset quantification methodologies in section 95990(c)(5)(H);~~

~~(2) Is verified pursuant to section 95990(f);~~

~~(3) Results from an early action offset project that is listed or registered with an Early Action Offset Program prior to the following:~~

~~(A) Early action offset projects developed under any of the offset quantification methodologies in sections 95990(c)(5)(A) through (D) must be listed with an Early Action Offset Program prior to January 1, 2014;~~

~~(B) Early action offset projects developed under any of the offset quantification methodologies in sections 95990(c)(5)(E) through (G) must be listed with an Early Action Offset Program prior to January 1, 2015; and~~

~~(C) Early action offset projects developed under any of the offset quantification methodologies in section 95990(c)(5)(H) must be listed by January 1, 2016.~~

~~(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 and relied on the most recent version thereof at the time of offset project submittal:~~

~~(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;~~

~~(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 most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4;~~

~~(E) Climate Action Reserve Coal Mine Methane Project Protocol versions 1.0 and 1.1;~~

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

~~(G) Verified Carbon Standard VMR0002 Revisions to ACM0008 to Include Methane Capture and Destruction from Abandoned Coal Mines Methodology, v1.0; or~~

~~(H) American Carbon Registry Voluntary Emission Reductions in Rice Management Systems Parent Methodology, version 1.0:~~

~~1. American Carbon Registry Voluntary Emission Reductions in Rice Management Systems – California Module, version 1.0; and~~

~~2. American Carbon Registry Voluntary Emission Reductions in Rice Management Systems – Mid-South Module, version 1.0.~~

~~(d) The following parties must register with ARB pursuant to section 95830 before ARB offset credits may be issued pursuant to section 95990(i):~~

~~(1) The Offset Project Operator or Authorized Project Designee for a forest or urban forest early action offset project that does not transition to a Compliance Offset Protocol pursuant to section 95990(k); and~~

~~(2) The Offset Project Operator or Authorized Project Designee for the following early action offset projects, except as provided in section 95990(d)(3):~~

~~(A) A forest or urban forest early action offset project that transitions to a Compliance Offset Protocol pursuant to section 95990(k);~~

~~(B) An early action offset project developed under one of the protocols identified in section 95990(c)(5)(A), (C), (E), (F), and (G).~~

~~(3) The holder of early action offset credits, if the holder lists the early action offset project pursuant to section 95990(e) or seeks the issuance of ARB offset credits pursuant to section 95990(i) and provides ARB with the attestations required pursuant to section 95990(h)(6).~~

~~(e) Listing of Early Action Offset Projects. Before ARB can evaluate conflict of interest and any verification related information submitted pursuant to section 95990(f), and issue ARB offset credits pursuant to section 95990(i):~~

~~(1) The following parties must submit the information listed in section 95990(e)(2) to ARB:~~

~~(A) The Offset Project Operator or Authorized Project Designee for a forest or urban forest early action offset project that does not transition to a Compliance Offset Protocol pursuant to section 95990(k); and~~

~~(B) The Offset Project Operator or Authorized Project Designee for the following early action offset projects, except as provided in section 95990(e)(1)(C);~~

~~1. A forest or urban forest early action offset project that transitions to a Compliance Offset Protocol pursuant to section 95990(k);~~

~~2. An early action offset project developed under one of the protocols identified in section 95990(c)(5)(A), (C), (E), (F), and (G).~~

~~(C) If the Offset Project Operator or Authorized Project Designees identified in section 95990(e)(1)(B) do not list the early action offset project, the holder of early action offset credits may list the early action offset credit by submitting the information listed in section 95990(e)(2), as long as the following conditions are met:~~

~~1. The holder registers with ARB pursuant to section 95990(d); and~~

~~2. The holder has made at least one written request to the Offset Project Operator or Authorized Project Designee to confirm that the Offset Project Operator or Authorized Project Designee will not list the applicable early action reporting periods for the early action~~

~~offset project, and has provided proof of this request, and response, or at least 30 days has passed since the request to ARB.~~

~~(2) The parties identified in section 95990(e)(1) 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 which have conducted verification for the early action offset project under the Early Action Offset Program.~~

~~(G) For early action offset projects developed under the Climate Action Reserve U.S. Ozone Depleting Substances Project Protocol version 1.0, each early action reporting period, and/or destruction event may be considered an independent project, or may be listed as a single project with multiple early action reporting periods.~~

~~(3) The parties identified in section 95990(e)(1) may submit one or more early action reporting period(s) for the early action offset project for listing. The parties are not required to list all early action reporting periods associated with the early action offset project. The party that submits the listing information pursuant to this section must ensure that the GHG reductions and removal enhancements credited in the applicable early action reporting period are permanent as defined in section 95802, including reporting and verification to ensure permanence. An early action reporting period may not be listed with ARB pursuant to this section until after the Early Action Offset Program has approved or registered the early action offset credits for the~~

~~early action reporting period in its system. Early action reporting periods must be listed with ARB no later than January 1, 2016.~~

~~(4) The Early Action Offset Program must make the following information available on a publicly available website and clearly indicate which early action offset projects and early action reporting periods qualify for early action under this article:~~

~~(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 any verification body that conducted offset verification services for the early action offset project under the Early Action Offset Program. The offset verification team must include an offset project specific verifier for the applicable offset project type. Verification bodies performing regulatory verification pursuant to this section may verify more than 6 early action reporting periods.~~

~~(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 early action reporting period 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), unless the Offset Project Operator, Authorized Project Designee, or holder(s) follows the provisions in section 95990(f)(3)(G). The desk review of all early action reporting periods eligible and applicable pursuant to section 95990(c)(1) for each early action offset project may be applied as one single desk review. A desk review pursuant to section 95990(f)(3) may be conducted only once for each early action reporting period. The desk review must include the following:~~

~~(A) Review of the early action offset project original documentation, including the Early Action Verification Reports and Offset Verification Statements submitted to the Early Action Offset Program, 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 and recalculation of the data checks conducted by the original verification body for the Early Action Offset Program to ensure they were calculated correctly;~~

~~(C) If the verification body concludes with reasonable assurance that they concur that a positive verification statement should have been issued based on the Early Action Verification Report and the Offset Verification Statement submitted to the Early Action Offset Program for the applicable early action reporting period, the verification body must submit the attestation in section 95990(f)(3)(D) to ARB, and provide ARB with a report detailing the findings of the desk review. The Offset Project Operator, Authorized Project Designee, or holder(s) if~~

~~applicable, must submit the related early action reporting periods for the early action offset project for listing pursuant to section 95990(e) prior to the verification body submitting any findings pursuant to this section.~~

~~(D) The verification body must attest, in writing, to ARB as follows: "I certify under penalty of perjury under the laws of the State of California that I have conducted a desk review in accordance with the requirements of section 95990(f)(3) and concur with the issuance of a positive verification statement based on the Early Action Verification Report and Offset Verification Statement that was submitted to the Early Action Offset Program for the applicable early action reporting period."~~

~~(E) For each early action offset project the Offset Project Operator or Authorized Project Designee must provide the Early Action Verification Report(s) for all early action reporting periods eligible and applicable pursuant to section 95990(c)(1) to the offset verification team to assist in offset verification services and desk review.~~

~~(F) ARB will review the desk review findings submitted by the desk review verification body and determine whether to accept or reject the findings. ARB may consult with the OPO, APD, holder(s), Early Action Offset Program, and the verification body, as needed when making its determination. ARB will notify the verification body, Offset Project Operator, Authorized Project Designee, or holder(s) that listed the early action offset project of its determination. If ARB does not agree with a positive desk review finding, ARB will require that the reporting information provided by the Offset Project Operator or Authorized Project Designee to the original verification body be subject to full offset verification services pursuant to section 95990(f)(6).~~

~~(G) If the desk review verification body is unable to obtain the original verification body's data checks calculations or information used by the original verification body required to be reviewed pursuant to section~~

~~95990(f)(3)(A) or (B), the Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, may opt out of the desk review by having the verification body prepare a report to ARB explaining the circumstances for not completing the desk review process, and contract with a verification body to conduct full offset verification services pursuant to section 95990(f)(6).~~

~~(4) If during the desk review performed pursuant to section 95990(f)(3) the verification body cannot conclude with reasonable assurance that a positive verification statement should have been issued based on the Early Action Verification Report and the Offset Verification Statement submitted to the Early Action Offset Program for the applicable early action reporting period then the verification body must prepare a report for ARB and explain the reasons for this conclusion.~~

~~(5) ARB will review the information submitted by the verification body pursuant to section 95990(f)(4) and may request additional information from, and consult with, the Early Action Offset Program or the verification body as necessary.~~

~~(6) If ARB finds that the GHG reductions or removal enhancements reported to the Early Action Offset Program for a given early action reporting period should not have been issued a positive verification statement after reviewing the information submitted by the desk review verification body, the reporting information provided by the Offset Project Operator or Authorized Project Designee to the original verification body must be verified and full offset verification services pursuant to sections 95977.1 and any additional verification requirements in the applicable protocol identified in section 95990(c) must be conducted. The full offset verification services will be conducted based on the early action quantification methodology under which the OPO or APD of the early action offset project originally reported. The Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, may determine to not move forward with the full offset verification services and the early action offset credits would no longer be eligible to transition to ARB offset credits. If the Offset Project Operator, Authorized~~

~~Project Designee, or holder(s), if applicable, determine to move forward with the full offset verification services, the offset verification services for each early action reporting period 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(b)(3)(R) to ARB covering all serialized early action offset credits issued to the early action offset project for all early action reporting periods 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.~~

~~(7) Once ARB offset credits have been issued for an early action reporting period pursuant to section 95990(i) subsequent offset verification services provided for additional early action reporting periods for the same early action offset~~

~~project will not trigger a desk review of those early action reporting periods for which ARB offset credits have already been issued pursuant to section 95990(i).~~

~~(g) Conflict of Interest Requirements for Early Action. For each early action reporting period for which a verification body provides regulatory verification 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 reporting period must be submitted to ARB before ARB issues an ARB offset credit pursuant to section 95990(i). Conflict of interest self-evaluations for multiple early action reporting periods for one early action offset project may be combined into one evaluation. The Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, must submit the related early action reporting periods for the early action offset project for listing pursuant to section 95990(e), and the listing must be approved, prior to the verification body submitting the conflict of interest assessment pursuant to this section.~~

~~(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 and Authorized Project Designee or holder(s), if applicable, 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 reporting period 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 determined to meet the requirements for regulatory verification pursuant to section 95990(f) and verification under the Early Action Offset Program was completed with the submittal of an Offset Verification Statement to an Early Action Offset Program by September 30, 2015 for GHG reductions or GHG removal enhancements eligible to be issued ARB offset credits;~~

~~(4) The early action offset project has been listed pursuant to section 95990(e); and~~

~~(5) The following parties must submit the attestations listed in section 95990(h)(6) to ARB:~~

~~(A) The Offset Project Operator or Authorized Project Designee for a forest or urban forest early action offset project that does not transition to a Compliance Offset Protocol pursuant to section 95990(k); and~~

~~(B) The Offset Project Operator or Authorized Project Designee for the following early action offset projects, except as provided in section 95990(h)(5)(C):~~

~~1. A forest or urban forest early action offset project that transitions to a Compliance Offset Protocol pursuant to section 95990(k);~~

~~2. An early action offset project developed under one of the protocols identified in section 95990(c)(5)(A), (C), (E), (F), and (G).~~

~~(C) The holder of early action offset credits may seek issuance of ARB offset credits pursuant to section 95990(i), as long as the holder provides ARB the attestations required pursuant to section 95990(h)(6).~~

~~(6) The parties identified in section 95990(h)(5) must submit the following information to ARB:~~

~~(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 that the offset project activity and the implementation of the offset project must be in accordance with all applicable local, regional, and national environmental and health and safety regulations that apply based on the offset project location. I understand that offset projects are not eligible to receive ARB offset credits for GHG reductions or GHG removal enhancements that are not in compliance with the requirements of this Article."~~

~~(7) 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) ARB offset credits will be issued for early action offset credits generated under Climate Action Reserve Forest Project Protocol version 2.1 and versions 3.0 through 3.2, pursuant to the following:~~

~~1. If any ARB offset credits are being issued to an early action forest offset project pursuant to this section, ARB will notify the Early Action Offset Program of the quantity of early action offset credits that must be removed or canceled from its buffer account for forest projects for that project such that they are no longer available on the Early Action Offset Program's system.~~

~~a. The early action offset credits being removed or canceled from the Early Action Offset Program's buffer account for forest projects must meet the criteria of this section. Early action offset credits that do not meet the criteria of this section may not be used to meet ARB's Forest Buffer Account requirements.~~

~~b. If ARB offset credits were placed in the Forest Buffer Account for purposes of transitioning early action offset credits to ARB offset credits, and the early action offset credits were removed or canceled from the Early Action Offset Program's buffer account for forest projects pursuant to sections 95990(i)(1)(D)1.b.i. or ii., ARB will remove or cancel the ARB offset credits from the Forest Buffer Account so that they may be transferred permanently to the Early Action Offset Program's buffer account for forest offset projects:~~

~~i. The early action offset credits did not meet the criteria in section 95990(c); or~~

~~ii. The early action offset credits removed from the Early Action Offset Program's buffer account for forest projects were removed in excess of the amount of early action offset credits required by this section.~~

~~2. A specified number of the issued ARB offset credits must be placed in the Forest Buffer Account for each early action reporting period eligible and applicable pursuant to section 95990(c)(1) using the following equation:~~

$$\cancel{ARB_{Buffer} = ARB_{Issue} \times Max[RR_{EAOP}, RR_{COP}]}$$

~~Where:~~

~~"ARB_{Buffer}" is the number of ARB offset credits issued for the early action reporting period to be placed in the ARB Forest Buffer Account;~~

~~"ARB_{Issue}" is the total number of ARB offset credits issued by ARB into the Issuance Account, including the ARB offset credits to be placed into the Forest Buffer Account, for transitioning the early action offset credits requested by the Offset Project Operator, Authorized Project Designee, or holder(s) for an early action reporting period as calculated in sections 95990(i)(1)(D)3.a., b. or c. below, as applicable;~~

~~"Max" is the larger of the two values [RR_{EAOP}, RR_{COP}];~~

~~"RR_{EAOP}" is the reversal risk rating percentage applied by the Early Action Offset Program to calculate the number of early action offset credits placed in the Early Action Offset Program's buffer account~~

~~for forest projects at the time of early action offset credit issuance by the Early Action Offset Program for an early action reporting period; and~~

~~"RR_{COP}" is the reversal risk rating percentage that must be applied to an early action forest offset project pursuant to the project-specific reversal risk rating calculation in the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4., for an early action reporting period.~~

~~a. ARB will calculate the reversal risk rating percentage for RR_{COP} for the early action reporting period for the early action offset project according to the requirements in the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4.~~

~~b. When calculating the reversal risk rating percentage using the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4., ARB will use the maximum value for each risk category in the Compliance Offset Protocol unless the original early action verification included a review of the criteria for determining the risk and verified the requirements for calculating the risk category.~~

~~c. Qualified Conservation Easements cannot be retroactively applied to the reversal risk rating percentage calculations for the purposes of early action. Once the forest project transitions to a Compliance Offset Protocol pursuant to section 95990(k), it may use a Qualified Conservation Easement to reduce its reversal risk rating on a forward basis.~~

~~3. ARB will determine the number of ARB offset credits that may be issued to the Offset Project Operator, Authorized Project Designee,~~

~~or holder(s), if applicable, for each early action reporting period for which ARB offset credits are issued as follows:~~

~~a. If the following condition applies, and no early action offset credits have yet been canceled or retired from the Early Action Offset Program's buffer account for forest projects for the early action reporting period, then ARB will issue one ARB offset credit for each early action offset credit that meets the requirements of this section for which the Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, are seeking issuance of ARB offset credits, plus an amount of ARB offset credits equal to the associated credits transferring over from the Early Action Offset Program's buffer account for forest projects, for an early action reporting period:~~

~~If:~~ $\cancel{RR_{EAOP} \geq RR_{COP}}$

~~Then:~~

$$\cancel{ARB_{Issue} = \frac{ARB_{Request}}{(1 - RR_{EAOP})}}$$

~~Where:~~

~~"ARB_{Issue} is the total number of ARB offset credits issued by ARB into the Issuance Account, including the ARB offset credits to be placed into the Forest Buffer Account, for transitioning the early action offset credits requested by the Offset Project Operator, Authorized Project Designee, or holder(s) for an early action reporting period, based on the amount of ARB offset credits for which the party is seeking issuance;~~

~~"$ARB_{Request}$" is the number of early action offset credits that meet the requirements of this section for which the Offset~~

~~Project Operator, Authorized Project Designee, or holder(s), if applicable, are seeking issuance of ARB offset credits for an early action reporting period;~~

~~"RR_{EAOP}" is the risk-reversal rating percentage applied by the Early Action Offset Program to calculate the number of early action offset credits that were placed into the Early Action Offset Program's buffer account for forest projects at the time of early action offset credit issuance by the Early Action Offset Program for each early action reporting period; and~~

~~"RR_{COP}" is the reversal risk rating percentage that must be applied to the early action forest offset project pursuant to the project-specific reversal risk rating calculation in the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4. for an early action reporting period.~~

~~i. The Early Action Offset Program must retire or cancel early action offset credits from its buffer account for forest projects for the early action reporting period equal to the following:~~

$$\cancel{EAOP_{BufferRetire} = ARB_{Issue} \times RR_{EAOP}}$$

~~Where:~~

~~"$EAOP_{BufferRetire}$" is the number of early action offset credits the Early Action Offset Program will retire from its buffer account for forest projects for the early action reporting period;~~

~~"ARB_{Issue}" is the total number of ARB offset credits issued by ARB into the Issuance Account, including the ARB~~

~~offset credits to be placed into the Forest Buffer Account, for transitioning the early action offset credits requested by the Offset Project Operator, Authorized Project Designee, or holder(s) for an early action reporting period as calculated in section 95990(i)(1)(D)3.a. above; and~~

~~"RR_{EAOP}" is the risk-reversal rating percentage applied by the Early Action Offset Program to calculate the number of early action offset credits that were placed into the Early Action Offset Program's buffer account for forest projects at the time of early action offset credit issuance by the Early Action Offset Program for each early action reporting period.~~

~~ii. ARB will place ARB offset credits into the Holding Account of the Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, according to the following for each early action reporting period:~~

$$\cancel{ARB_{Holding} = ARB_{Issue} - ARB_{Buffer}}$$

~~Where:~~

~~"$ARB_{Holding}$" is the number of ARB offset credits to be placed into the Holding Account of the Offset Project Operator, Authorized Project Designee, or holder(s) if applicable, seeking issuance of ARB offset credits for an early action reporting period;~~

~~"ARB_{Issue} is the total number of ARB offset credits issued by ARB into the Issuance Account, including the ARB offset credits to be placed into the Forest Buffer Account, for transitioning the early action offset credits requested~~

~~by the Offset Project Operator, Authorized Project Designee, or holder(s) for an early action reporting period as calculated in section 95990(i)(1)(D)3.a. above; and~~

~~"ARB_{Buffer}" is the number of ARB Offset Credits issued for the early action reporting period to be placed in the ARB Forest Buffer Account as calculated in 95990(i)(1)(D)2. above.~~

~~b. If the Early Action Offset Program's reversal risk rating percentage is less than the reversal risk rating calculated using the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4., and no early action offset credits have yet been canceled or retired from the Early Action Offset Program's buffer account for forest projects for the early action reporting period, the following equation will determine the number of ARB offset credits to be issued for each early action reporting period:~~

~~If:~~ $\cancel{RR_{EAOP} < RR_{COP}}$

~~Then:~~

$$\cancel{ARB_{Issue} = \frac{ARB_{Request}}{(1 - RR_{EAOP})}}$$

~~Where:~~

~~"ARB_{Issue}" is the total number of ARB offset credits issued by ARB into the Issuance Account, including the ARB offset credits to be placed into the Forest Buffer Account, for transitioning the early action offset credits requested by the Offset Project Operator, Authorized Project Designee, or holder(s) for an early action reporting period, based on the amount of ARB offset credits for which the party is seeking issuance;~~

~~"$ARB_{Request}$" is the number of early action offset credits that meet the requirements of this section for which the Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, are seeking issuance of ARB offset credits for an early action reporting period;~~

~~"RR_{EAOP}" is the risk-reversal rating percentage applied by the Early Action Offset Program to calculate the number of early action offset credits that were placed into the Early Action Offset Program's buffer account for forest projects at the time of early action offset credit issuance by the Early Action Offset Program for each early action reporting period; and~~

~~"RR_{COP}" is the reversal risk rating percentage that must be applied to the early action forest offset project pursuant to the project-specific reversal risk rating calculation in the Compliance Offset Protocol in section 95973(a)(2)(C)4., for an early action reporting period.~~

~~i. The Early Action Offset Program must retire or cancel early action offset credits from its buffer account for forest projects for the early action reporting period equal to the following:~~

$$\cancel{EAOP_{BufferRetire} = ARB_{Issue} \times RR_{EAOP}}$$

~~Where:~~

~~"$EAOP_{BufferRetire}$" is the number of early action offset credits the Early Action Offset Program will retire from its buffer account for forest projects for an early action reporting period;~~

~~"ARB_{Issue}" is the total number of ARB offset credits issued by ARB into the Issuance Account, including the ARB offset credits to be placed into the Forest Buffer Account, for transitioning the early action offset credits requested by the Offset Project Operator, Authorized Project Designee, or holder(s) for an early action reporting period as calculated in section 95990(i)(1)(D)3.b. above; and~~

~~"RR_{EAOP}" is the risk-reversal rating percentage applied by the Early Action Offset Program to calculate the number of early action offset credits that were placed into the Early Action Offset Program's buffer account for forest projects at the time of early action offset credit issuance by the Early Action Offset Program for an early action reporting period.~~

~~ii. ARB will place ARB offset credits into the Holding Account of the Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, according to the following, for each early action reporting period:~~

$$\cancel{ARB_{Holding} = ARB_{Issue} - ARB_{Buffer}}$$

~~Where:~~

~~"$ARB_{Holding}$" is the number of ARB offset credits to be placed into the Holding Account of the Offset Project Operator, Authorized Project Designee, or holder(s) if applicable, seeking issuance of ARB offset credits for an early action reporting period;~~

~~"ARB_{Issue} is the total number of ARB offset credits issued by ARB into the Issuance Account, including the ARB offset credits to be placed into the Forest Buffer Account, for transitioning the early action offset credits requested by the Offset Project Operator, Authorized Project Designee, or holder(s) for an early action reporting period as calculated in section 95990(i)(1)(D)3.b. above; and~~

~~"ARB_{Buffer}" is the number of ARB Offset Credits issued for the early action reporting period to be placed in the ARB Forest Buffer Account as calculated in 95990(i)(1)(D)2. above.~~

~~c. If early action offset credits have already been canceled or removed from the Early Action Offset Program's buffer account for forest projects for an early action reporting period due to a reversal or retirement prior to issuance of ARB offset credits, the following will apply for any early action reporting period regardless of ARB's or the Early Action Offset Program's reversal risk rating calculation:~~

~~i The number of early action offset credits the Early Action Offset Program must cancel from its buffer account for forest projects for the early action reporting period is as follows:~~

$$\cancel{EAOP_{BufferRetire}} = \frac{\cancel{\frac{ARB_{Request}}{(1 - RR_{EAOP})}}}{\cancel{EAOP_{Issue}}} \times \cancel{EAOP_{BufferActive}}$$

~~Where:~~

~~"$EAOP_{BufferRetire}$" is the number of early action offset credits the Early Action Offset Program will retire from its~~

~~buffer account for forest projects for an early action reporting period;~~

~~"$EAOP_{Issue}$" is the total number of early action offset credits that were issued, for the early action reporting period by the Early Action Offset Program including early action offset credits placed in the buffer account for forest projects;~~

~~"$ARB_{Request}$" is the number of early action offset credits that meet the requirements of this section for which the Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, are seeking issuance of ARB offset credits for the early action reporting period;~~

~~"RR_{EAOP}" is the risk-reversal rating percentage applied by the Early Action Offset Program to calculate the number of early action offset credits that were placed into the Early Action Offset Program's buffer account for forest projects at the time of early action offset credit issuance by the Early Action Offset Program for an early action reporting period; and~~

~~"$EAOP_{BufferActive}$" is the number of active early action offset credits remaining in the Early Action Offset Program buffer account for forest projects for the early action reporting period after the reversal or retirement.~~

~~ii The number of early action offset credits ARB will issue is as follows:~~

$$\cancel{ARB_{Issue} = ARB_{Request} + EAOP_{BufferRetire}}$$

~~Where:~~

~~"ARB_{Issue}" is the total number of ARB offset credits issued by ARB into the Issuance Account, including the ARB offset credits to be placed into the Forest Buffer Account, for transitioning the early action offset credits requested by the Offset Project Operator, Authorized Project Designee, or holder(s) for an early action reporting period;~~

~~"$ARB_{Request}$" is the number of early action offset credits that meet the requirements of this section for which the Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, are seeking issuance of ARB offset credits for each early action reporting period; and~~

~~"$EAOP_{BufferRetire}$" is the number of early action offset credits the Early Action Offset Program will retire from its buffer account for forest projects for an early action reporting period, as calculated pursuant to section 95990(i)(1)(D)3.c.i. above;~~

~~iii ARB will place ARB offset credits into the Holding Account of the Offset Project Operator, Authorized Project Designee, or holder(s), if applicable, according to the following for each early action reporting period:~~

$$\cancel{ARB_{Holding} = ARB_{Issue} - ARB_{Buffer}}$$

~~Where:~~

~~"$ARB_{Holding}$" is the number of ARB offset credits to be placed in the Holding Account of the Offset Project~~

~~Operator, Authorized Project Designee, or holder(s) if applicable, seeking issuance of ARB offset credits for an early action reporting period;~~

~~"ARB_{Issue} is the total number of ARB offset credits issued by ARB into the Issuance Account, including the ARB offset credits to be placed into the Forest Buffer Account, for transitioning the early action offset credits requested by the Offset Project Operator, Authorized Project Designee, or holder(s), for an early action reporting period as calculated in section 95990(i)(1)(D)3.c.ii. above; and~~

~~"ARB_{Buffer}" is the number of ARB Offset Credits issued for the early action reporting period to be placed in the ARB Forest Buffer Account as calculated in 95990(i)(1)(D)2. above.~~

~~d. When ARB requests retirement or cancellation of early action offset credits from an Early Action Offset Program's buffer account for forest projects for the purpose of placement in ARB's Forest Buffer Account, ARB will request proof from an Early Action Offset Program that it has retired the early action offset credits from its buffer account for forest offset projects. The Early Action Program must provide proof to ARB of its retirement of the early action offset credits from its buffer account for forest projects within 10 calendar days of a request by ARB.~~

~~4. If there is an unintentional reversal for any early action forest offset project, even after it transitions to ARB's Compliance Offset Protocol in section 95973(a)(2)(C)4., the provisions in section 95983(b) and (d) apply.~~

5. ~~If there is an intentional reversal for any early action forest offset project, even after it transitions to ARB's Compliance Offset Protocol in section 95973(a)(2)(C)4., the provisions in section 95983(c) and (d) apply.~~

(E) ~~One ARB offset credit will be issued for one early action offset credit generated under Climate Action Reserve Coal Mine Methane Project Protocol versions 1.0 and 1.1;~~

(F) ~~ARB offset credits will be issued for early action offset projects generated under Verified Carbon Standard VMR0001 Revisions to ACM0008 to Include Pre-drainage of Methane from an Active Open Cast Mine as a Methane Emission Reduction Activity Methodology, v1.0 or VMR0002 Revisions to ACM0008 to Include Methane Capture and Destruction from Abandoned Coal Mines Methodology, v1.0 according to the following:~~

1. ~~One ARB offset credit will be issued for one early action offset credit for each early action reporting period that did not include emissions from the production of power, heat or supply to gas grid replaced by the project activity in the baseline (identified as $BE_{Use,y}$ in ACM0008); or~~

2. ~~No ARB offset credits will be issued for GHG emission reductions credited by an Early Action Offset Program based on data reported by the Offset Project Operator or Authorized Project Designee that included emissions from the production of power, heat or supply to gas grid replaced by the project activity in the baseline (identified as $BE_{Use,y}$ in ACM0008);~~

(G) ~~For early action offset credits issued for mine methane capture projects developed under an approved early action quantification methodology no ARB offset credits will be issued for GHG emission reductions credited by an Early Action Offset Program based on data reported by the Offset Project Operator or Authorized Project Designee that included emission reductions from the destruction of methane by a~~

~~destruction device that would be classified as a non-qualifying destruction device in the Compliance Offset Protocol in section 95973(a)(2)(C)5.; and~~

~~(H) ARB offset credits will be issued for early action offset projects generated under the offset quantification methodology in section 95990(c)(5)(H) according to the following:~~

~~1. One ARB offset credit will be issued for one early action offset credit for each early action reporting period that did not include emissions reductions from nitrous oxide (N_2O), soil organic carbon (SOC), reduced fossil fuel consumption and activities ineligible under the Compliance Offset Protocol in section 95973(a)(2)(C)6.; and~~

~~a. Early action offset projects must take the single run output of the De-Nitrification De-Composition (DNDC) model and use equations 5.2.1 and 5.3.1 of the Compliance Offset Protocol in section 95973(a)(2)(C)6. to calculate the baseline and project N_2O, SOC and CH_4.~~

~~b. Early action offset projects must then take the results of equations 5.2.1 and 5.3.1 and use them to calculate the primary source GHG emission reductions from one run of DNDC using the equation for $PER_{i,j}$ from equation 5.4.1 of the Compliance Offset Protocol in section 95973(a)(2)(C)6.~~

~~c. Early action offset projects must substitute the results of $PER_{i,j}$ for $BE_{y,i}$ - $PE_{y,i}$ (incorrectly identified as $PE_{y,i}$ - $BE_{y,i}$ and subsequently corrected in errata and clarifications) in equations 7 and 8 of the offset quantification methodology in section 95990(c)(5)(H) to calculate project emission reductions.~~

~~d. If modification to the parent methodology identified in the module in section 95990(c)(5)(H)2. results in project energy use emissions (E_{fe} in equation 3) being less than the~~

~~baseline energy use, both the project and baseline energy use emissions must be set to zero (0). If project energy use emissions are greater than baseline energy use emissions, the actual values must be used.~~

~~e. If activities ineligible under the Compliance Offset Protocol in section 95973(a)(2)(C)6. were employed during an early action reporting period, the relevant cropping parameters from the early action reporting period being considered must be used in place of the baseline parameters for the ineligible activities when running DNDC.~~

~~2. No ARB offset credits will be issued for GHG emission reductions credited by an Early Action Offset Program based on a baseline set applying data from the common practice in the rice growing region rather than data specific to a project's fields.~~

~~(I) If an early action offset project is issued ARB offset credits pursuant to section 95990(i)(1)(D) and transitions from Climate Action Reserve Forest Project Protocol version 2.1 to the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4. pursuant to section 95990(k) the early action offset project may calculate its project baseline pursuant to section 95990(k)(1)(D) and use the following method to determine if it could qualify for additional early action offset credits:~~

~~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 most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4. 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 determined pursuant to section 95990(i)(H)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) for the timeframe specified in section 95990(i)(1)(H)1. ARB will transfer ARB offset credits to the Forest Buffer Account in the amount calculated pursuant to section 95990(i)(1)(D)2. and will transfer the remaining ARB offset credits to the Offset Project Operator or Authorized Project Designee.~~

~~b. If the difference is negative, ARB will only issue ARB offset credits pursuant to section 95990(i)(D)1. for the timeframe specified in section 95990(i)(1)(H)1.~~

~~3. Section 95990(i)(1)(H) does not apply to holders of early action offset credits.~~

~~(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 permanently removed or canceled by the Early Action Offset Program within 10 calendar days of ARB notification, such that the early action offset credits are no longer available for transaction on the Early Action Offset Program registry system.~~

~~(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 holder(s) of the original early action offset credits, if applicable, 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 Holding Accounts as follows within 15 working days of the notice of issuance pursuant to section 95990(i)(4), unless otherwise required in section 95990(i)(1)(D):~~

~~(1) If the Offset Project Operator or Authorized Project Designee was issued additional ARB offset credits pursuant to section 95990(i)(1)(H)2.a. ARB will transfer the ARB offset credit into the Holding Account of the Offset Project Operator or Authorized Project Designee and the Forest Buffer Account, as required.~~

~~(2) For an ARB offset credit issued pursuant to sections 95990(i)(1)(A) through (G) ARB will transfer the ARB offset credits into the Holding Account of the Offset Project Operator, Authorized Project Designee, or holder(s) of the early action offset credits.~~

~~(A) The Offset Project Operator, Authorized Project Designee, or holder(s) must prove ownership of the original early action offset credits, including the original serial numbers issued by the Early Action Offset Program, and submit a request for issuance to ARB for the issuance of ARB offset credits, before ARB will transfer the ARB offset credits into the Holding Account. Offset Project Operators, Authorized Project Designees, and Forest Owners may also be considered holders if they can prove ownership of the original early action offset credits.~~

~~(B) Before any party is issued ARB offset credits into a Holding Account, the party must be registered with ARB pursuant to section 95830 and be approved for a Holding Account.~~

~~(C) ARB will make publicly available on its webpage which early action offset credits qualify to be issued ARB offset credits based on the early action reporting period in which the early action offset credits were issued.~~

~~(D) An Offset Project Operator, Authorized Project Designee, or holder(s) may request that only a portion of the eligible GHG reductions and removal enhancements for the applicable Reporting Period be issued ARB offset credits in the request for issuance of ARB offset credits.~~

~~(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 later than February 28, 2015, or by February 28, 2016 for projects developed under any of the offset quantification methodologies in section 95990(c)(5)(H), by submitting listing information required pursuant to section 95975 to ARB or an Offset Project Registry and having that listing approved:~~

~~(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 the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)2.;~~

~~(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, October 20, 2011;~~

~~(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 the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)1.;~~

~~(D) Early action offset projects using Climate Action Reserve Forest Project Protocol version 2.1 must use and meet all the requirements in the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4. At the time of transition the early action offset project must calculate its project baseline according to all the provisions in the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4., and the requirements in this article over the period of~~

~~time 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), plus one-hundred years. This project baseline will remain valid for the duration of the offset project life. Registry offset credits and ARB offset credits issued for the first Reporting Period after the early action offset project is listed pursuant to section 95975 using the most recent version of the Compliance Offset Protocol in secion 95973(a)(2)(C)4., will only be for the increased carbon stocks beyond what was already issued early action offset credits in the last year before the early action offset project transitioned to a Compliance Offset Protocol pursuant to this section;~~

~~(E) Early action offset projects using Climate Action Reserve Forest Project Protocol versions 3.0 through 3.2 must use the most recent version of the Compliance Offset Protocol in section 95973(a)(2)(C)4. 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;~~

~~(F) Early action offset projects using Climate Action Reserve Coal Mine Methane Project Protocol versions 1.0 and 1.1, Verified Carbon Standard VMR0001 Revisions to ACM0008 to Include Pre-drainage of Methane from an Active Open Cast Mine as a Methane Emission Reduction Activity Methodology version 1.0, and Verified Carbon Standard VMR0002 Revisions to ACM0008 to Include Methane Capture and Destruction from Abandoned Coal Mines Methodology version 1.0 must use and meet all the requirements in the Compliance Offset Protocol in section 95973(a)(2)(C)5.; and~~

~~(G) Early action offset projects using American Carbon Registry Voluntary Emission Reductions in Rice Management Systems Parent~~

~~Methodology, version 1.0 must use and meet all the requirements in the Compliance Offset Protocol in section 95973(a)(2)(C)6.~~

~~(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.~~

~~(C) To transition an early action offset project to the ARB compliance offset program, the offset project must be listed with ARB or an Offset Project Registry by February 28, 2015, but, if applicable, has until September 30, 2015 to complete the verification of any GHG reductions and GHG removal enhancements under the Early Action Offset Program that were achieved between 2005 and 2014 with the submittal of an Offset Verification Statement to the Early Action Offset Program.~~

~~(D) To transition an early action offset project developed under any of the offset quantification methodologies in section 95990(c)(5)(H) to the ARB compliance offset program, the offset project must be listed with ARB or an Offset Project Registry by February 28, 2016, but, if applicable, has until April 30, 2016 to complete the verification of any GHG reductions and GHG removal enhancements under the Early Action Offset Program that were achieved between 2005 and 2015 with the submittal of an Offset Verification Statement to the Early Action Offset Program.~~

~~(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) GHG reduction and GHG removal enhancement verification requirements 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 for any GHG reductions or GHG removal enhancements it achieves.~~

~~(5) ARB will not issue ARB offset credits after August 31, 2016 for any GHG reductions or GHG removal enhancements achieved through 2014 and issued early action offset credits by an Early Action Offset Program and after December 31, 2016 for projects developed under any of the offset quantification methodologies in section 95990(c)(5)(H) for any GHG reductions or GHG removal enhancements achieved through 2015 and issued early action offset credits by an Early Action Offset Program.~~

(~~l~~a) An ARB offset credit issued pursuant to ~~section 95990(i)~~the Program for Recognition of Early Action Offset Credits may be invalidated pursuant to section 95985 as follows:

(1) An ARB offset credit issued to a non-sequestration project or an urban forest project, or a U.S. forest offset project issued on or after July 1, 2014, may be invalidated pursuant to sections 95985(a) through (h) and section 95985(j) and as follows:

(A) If an Offset Project Operator or Authorized Project Designee was issued offset credits pursuant to ~~section 95990(i)~~the Program for Recognition of Early Action Offset Credits and the party identified in section 95985(e)(2) is no longer in business pursuant to section 95101(h)(2), the provisions in sections 95985(h)(1)(C)1. through 3. and sections 95985(h)(2)(B)1. through 3. still apply to the Offset Project Operator; or

(B) If the holder of early action offset credits was issued ARB offset credits pursuant to section ~~section 95990(i)~~the Program for Recognition of Early Action Offset Credits and the party identified in section 95985(e)(2) is no longer in business pursuant to section 95101(h)(2), the provisions in sections 95985(h)(1)(C)1. through 3. and sections 95985(h)(2)(B)1. through 3. apply to the holder that was issued ARB offset credits pursuant to section 95990(i) and not the Offset Project Operator.

(2) An ARB offset credit issued to a U.S. forest offset project on or prior to July 1, 2014, may be invalidated pursuant to sections 95985(a) through (g) and sections 95985(i) and (j).

(3) For an early action offset project developed under one of the quantification methodologies in ~~sections 95990(c)(5)(A), (B), (D), (E), (F), or (G)~~the Program for Recognition of Early Action Offset Credits the invalidation timeframe will remain at eight years, unless one of the following applies and are met to reduce the ~~statute of limitations~~invalidation timeframe to three years:

(A) If an Offset Project Operator or Authorized Project Designee transitions an early action offset project to a Compliance Offset Protocol pursuant to ~~section 95990(k)~~the Program for Recognition of Early Action Offset Credits:

1. An ARB-accredited verification body must verify a subsequent Offset Project Data Report generated under a Compliance Offset Protocol. The verification must meet the requirements pursuant to sections 95985(b)(1)(B)1., (b)(1)(B)2., and (b)(1)(B)4.b.

2. The ARB-accredited verification body must be a different verification body than the one that conducted any regulatory verification services of the early action offset project pursuant to section 95990(f) or that verified the early action offset project under the Early Action Offset Program, and must meet the requirements

for conflict of interest pursuant to section 95979 and for the rotation of verification bodies pursuant to section 95977.1(a); and

3. If the requirements in sections 95990(l)(3)(A) through (l)(3)(A)2. are met, the invalidation timeframe would be as specified in section 95985(b)(1)(B)3.b.; or

(B) If an Offset Project Operator or Authorized Project Designee does not transition an early action offset project to a Compliance Offset Protocol pursuant to ~~section 95990(k)~~the Program for Recognition of Early Action Offset Credits, or the Offset Project Operator or Authorized Project Designee chooses to reduce the invalidation timeframe prior to the verification of a subsequent Offset Project Data Report being verified pursuant to section ~~95990(l)(3)(A)~~the Program for Recognition of Early Action Offset Credits above:

1. An ARB-accredited verification body must conduct full offset verification services pursuant to sections 95977.1 and 95978, except for section 95977.1(b)(3)(M), based on the original data report and/or reporting information submitted to the Early Action Offset Program for the original offset verification conducted under the Early Action Offset Program for the applicable early action reporting period. Although the requirements in section 95977.1(b)(3)(M) do not need to be met under this section, any misreporting, discrepancies, and omissions found during the full offset verification services must be included in the offset material misstatement calculation performed pursuant to section 95977.1(b)(3)(Q). The full offset verification services must be in addition to any regulatory verification services conducted for the early action offset project pursuant to section 95990(f). The verification body must submit the verification materials pursuant to section 95985(b)(1)(A)2.a. and the Offset Project Registry and ARB must review the verification materials pursuant to sections 95985(b)(1)(A)2.b. through d.;

2. The ARB-accredited verification body must meet the requirements for conflict of interest pursuant to section 95979 and rotation of verification bodies pursuant to section 95977.1(a), and be a different verification body than the one that conducted any regulatory verification services of the applicable early action reporting period for the early action offset project pursuant to section ~~section 95990(f)~~the Program for Recognition of Early Action Offset Credits or that verified the ~~the~~ applicable early action reporting period for the early action offset project under the Early Action Offset Program; and

3. The new ARB-accredited verification body must complete the full offset verification services, by submitting an Offset Verification Statement pursuant to section 95977.1(b)(3)(R)1., within a maximum of three years following the issuance of ARB offset credits for the early action reporting period as a result of the regulatory verification services performed pursuant to section ~~section 95990(f)~~the Program for Recognition of Early Action Offset Credits, and the Offset Project Operator or Authorized Project Designee must receive a Positive or Qualified Positive Offset Verification Statement from the new verification body for the same early action reporting period. The full offset verification services must include a site visit to the offset project location, and any other sites as specified in the applicable early action quantification methodology. The site visit must be performed only once for all qualifying early action reporting periods.

4. If the requirements of sections 95990(~~l~~a)(3)(B) through (~~l~~a)(3)(B)3. are met, the invalidation timeframe would be as specified in section 95985(b)(1)(A)3.b.

(4) For an early action offset project developed under the quantification methodology in ~~sections 95990(c)(5)(C)~~ the Program for Recognition of Early Action Offset Credits, the ~~statute of limitations~~invalidation timeframe will

remain at eight years, unless the following criteria are met to reduce the invalidation timeframe to three years:

(A) An ARB-accredited verification body must conduct full offset verification services pursuant to sections 95977.1 and 95978, except for section 95977.1(b)(3)(M), based on the original data report and/or reporting information submitted to the Early Action Offset Program for the original offset verification conducted under the Early Action Offset Program for the applicable early action reporting period. Although the requirements in section 95977.1(b)(3)(M) do not need to be met under this section, any misreporting, discrepancies, and omissions found during the full offset verification services must be included in the offset material misstatement calculation performed pursuant to section 95977.1(b)(3)(Q). The full offset verification services must be in addition to any regulatory verification services conducted for the early action offset project pursuant to section 95990(f). The verification body must submit the verification materials pursuant to section 95985(b)(1)(A)2.a. and the Offset Project Registry and ARB must review the verification materials pursuant to sections 95985(b)(1)(A)2.b. through d.;

(B) The ARB-accredited verification body must meet the requirements for conflict of interest pursuant to section 95979 and the rotation of verification bodies pursuant to section 95977.1(a), and be a different verification body than the one that conducted any regulatory verification services of the applicable early action reporting period for the early action offset project pursuant to section ~~95990(f)~~ <u>the Program for Recognition of Early Action Offset Credits</u> or that verified the applicable early action reporting period for the early action offset project under the Early Action Offset Program; and

(C) The new ARB-accredited verification body must complete the full offset verification services, by submitting an Offset Verification Statement pursuant to section 95977.1(b)(3)(R)1., within a maximum of three

years following the issuance of ARB offset credits for the early action reporting period as a result of the regulatory verification services performed pursuant to section ~~95990(f)~~ the Program for Recognition of Early Action Offset Credits and the Offset Project Operator or Authorized Project Designee must receive a Positive or Qualified Positive Offset Verification Statement from the new verification body for the same early action reporting period. The full offset verification services must include a site visit to the offset project location, and any other sites as specified in the applicable early action quantification methodology. The site visit must only be performed once for all qualifying early action reporting periods.

(D) If the requirements of sections 95990(~~l~~a)(4) through (~~l~~a)(4)(C) are met the invalidation timeframe would be as specified in section 95985(b)(1)(A)3.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.

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§ 96014. Violations.

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(c) If an entity exiting the program pursuant to section 95835(f)(1) fails to place the appropriate number of allowances into its compliance account and notify the Executive Officer, as required under section 95835(f)(1)(D)(1), there is a separate violation of this article for each required allowance that has not been returned.

(~~c~~d) It is a violation to submit any record, information or report required by this article that:

(1) Falsifies, conceals, or covers up by any trick, scheme or device a material fact;

(2) Makes any false, fictitious or fraudulent statement or representation;

(3) Makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry; or

(4) Omits material facts from a submittal or record.

(5) A fact is material if it could probably influence a decision by the Executive Officer, the Board, or the Board's staff.

(e~~d~~) The violations stated in section 96014(c) are additional to violations of any obligations of any entity subject to this regulation under other provisions of this article requiring submissions to ARB to be true, accurate and complete.

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

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Appendix C: Quarterly Auction and Reserve Sale Dates

Auction	2015	2016	2017	2018	2019	2020
Q1 Auction	Wednesday, February 18	Wednesday, February 17	Wednesday, February 22	Wednesday, February 21	Wednesday, February 20	Wednesday, February 19
Q1 Reserve Sale	Wednesday, April 1	Tuesday, March 29	Tuesday, April 4	Tuesday, April 3	Tuesday, April 2	Wednesday, April 1
Q2 Auction	Tuesday, May 19	Tuesday, May 17	Tuesday, May 16	Tuesday, May 15	Tuesday, May 14	Tuesday, May 19
Q2 Reserve Sale	Tuesday, June 30	Tuesday, June 28	Tuesday, June 27	Tuesday, June 26	Tuesday, June 25	Tuesday, June 30
Q3 Auction	Tuesday, August 18	Tuesday, August 16	Tuesday, August 15	Tuesday, August 14	Tuesday, August 20	Tuesday, August 18
Q3 Reserve Sale	Tuesday, October 6	Tuesday, October 4	Tuesday, October 3	Tuesday, October 2	Tuesday, October 8	Tuesday, October 6
Q4 Auction	Tuesday, November 17	Tuesday, November 15	Tuesday, November 14	Wednesday, November 14	Tuesday, November 19	Tuesday, November 17
Q4 Reserve Sale	Tuesday, December 29	Friday, December 30	Friday, December 29	Friday, December 28	Tuesday, December 31	Tuesday, December 29

Auction	2021	2022	2023	2024	2025	2026
Quarter 1 Auction	Wednesday, 2/17/2021	Wednesday, 2/16/2022	Wednesday, 2/15/2023	Wednesday, 2/14/2024	Wednesday, 2/19/2025	Wednesday, 2/18/2026
Quarter 1 Reserve Sale	Tuesday, 3/30/2021	Wednesday, 3/30/2022	Wednesday, 3/29/2023	Wednesday, 3/27/2024	Wednesday, 3/26/2025	Wednesday, 4/1/2026
Quarter 2 Auction	Wednesday, 5/19/2021	Wednesday, 5/18/2022	Wednesday, 5/17/2023	Wednesday, 5/15/2024	Wednesday, 5/21/2025	Wednesday, 5/20/2026
Quarter 2 Reserve Sale	Wednesday, 6/30/2021	Wednesday, 6/29/2022	Wednesday, 6/28/2023	Wednesday, 6/26/2024	Wednesday, 6/25/2025	Tuesday, 6/30/2026
Quarter 3 Auction	Wednesday, 8/18/2021	Wednesday, 8/17/2022	Wednesday, 8/16/2023	Wednesday, 8/14/2024	Wednesday, 8/20/2025	Wednesday, 8/19/2026
Quarter 3 Reserve Sale	Wednesday, 9/29/2021	Wednesday, 9/28/2022	Wednesday, 9/27/2023	Wednesday, 9/25/2024	Tuesday, 9/30/2025	Wednesday, 9/30/2026
Quarter 4 Auction	Wednesday, 11/17/2021	Wednesday, 11/16/2022	Wednesday, 11/15/2023	Wednesday, 11/20/2024	Wednesday, 11/19/2025	Wednesday, 11/18/2026
Quarter 4 Reserve Sale	Wednesday, 12/29/2021	Wednesday, 12/28/2022	Wednesday, 12/27/2023	Tuesday, 12/31/2024	Tuesday, 12/30/2025	Wednesday, 12/30/2026

Auction	2027	2028	2029	2030	2031
Quarter 1 Auction	Wednesday, 2/17/2027	Wednesday, 2/16/2028	Wednesday, 2/14/2029	Wednesday, 2/20/2030	Wednesday, 2/19/2031
Quarter 1 Reserve Sale	Tuesday, 3/30/2027	Wednesday, 3/29/2028	Wednesday, 3/28/2029	Wednesday, 4/3/2030	Wednesday, 3/26/2031
Quarter 2 Auction	Wednesday, 5/19/2027	Wednesday, 5/17/2028	Wednesday, 5/16/2029	Wednesday, 5/15/2030	Wednesday, 5/14/2031
Quarter 2 Reserve Sale	Wednesday, 6/30/2027	Wednesday, 6/28/2028	Wednesday, 6/27/2029	Wednesday, 6/26/2030	Wednesday, 6/25/2031
Quarter 3 Auction	Wednesday, 8/18/2027	Wednesday, 8/16/2028	Wednesday, 8/15/2029	Wednesday, 8/14/2030	Wednesday, 8/20/2031
Quarter 3 Reserve Sale	Wednesday, 9/29/2027	Wednesday, 9/27/2028	Wednesday, 9/26/2029	Wednesday, 9/25/2030	Tuesday, 9/30/2031
Quarter 4 Auction	Wednesday, 11/17/2027	Wednesday, 11/15/2028	Wednesday, 11/14/2029	Wednesday, 11/20/2030	Wednesday, 11/19/2031
Quarter 4 Reserve Sale	Wednesday, 12/29/2027	Wednesday, 12/27/2028	Wednesday, 12/26/2029	Tuesday, 12/31/2030	Tuesday, 12/30/2031

Appendix D: CPP Glidepath Targets and Backstop Triggers from 2021 to 2031

Year	Compliance Period	Annual CPP Glidepath Target[#] ($MMTCO_2e$)	Full Compliance Period CPP Glidepath Target[#] ($MMTCO_2e$)	CPP Backstop Trigger[#] ($MMTCO_2e$)
2021	4	Not applicable	50.0	55
2022		50.0		
2023	5	49.4	98.3	108.2
2024		48.9		
2025	6	48.4	143.4	157.8
2026		47.8		
2027		47.3		
2028	7	46.7	92.9	102.2
2029		46.2		
2030	8	45.6	91.3	100.4
2031		45.6		

[#] For all two-year compliance periods after 2031, the CPP Glidepath Target is 91.3 $MMTCO_2e$ and the CPP Backstop Trigger is 100.4 $MMTCO_2e$.

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

This appendix identifies the specific project activities considered for regulatory compliance by project type.

(a) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)1. All project activities associated with the collection, recovery, storage, transportation, mixing, and destruction of ODS, including the disposal of the associated post-destruction waste products must be in compliance with all requirements that have a bearing on the integrity of the generated offsets.

(b) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)2. All project activities associated with the installation and operation of the biogas control system that captures and destroys the methane must be in compliance with all requirements that have a bearing on the integrity of the generated offsets. Project activities begin at waste collection and end at onsite biogas usage and the disposal of associated digester effluents.

(c) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)3. All project activities associated with tree planting, care, and monitoring must be in compliance with all requirements that have a bearing on the integrity of the generated offsets. In situations where it is unclear if an activity is within the scope of the project as described in the project listing information, ARB will consider the activity within the scope of the project.

(d) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)4. All project activities within the project area that directly affect carbon stocks must be in compliance with all requirements that have a bearing on the integrity of the generated offsets. This includes site preparation, planting, harvesting, and monitoring. Activities external to the project area, such as transportation of logs to mills, mill operations, and landfilling, are outside the project regulatory compliance assessment.

(e) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)5. All project activities associated with the operation of equipment used to collect, treat,

transport, or destroy mine gas or ventilation air must be in compliance with all requirements that have a bearing on the integrity of the generated offsets. The scope also includes the drilling and completion of additional wells or boreholes that are part of implementing the project. The drilling and completion of wells, boreholes, or vents at active underground mines for the purposes of mine safety is excluded from the project. Installation and operation of mine safety equipment such as a ventilation system at an active underground mine is also excluded from the scope of determining regulatory compliance and the scope of invalidation.

(f) Projects Using a Compliance Offset Protocol in Section 95973(a)(2)(C)6. All project activities beginning at field preparation for planting and continuing until the end of harvesting must be in compliance with all requirements that have a bearing on the integrity of the generated offsets.