

## **TITLE 17. CALIFORNIA AIR RESOURCES BOARD**

### **NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS AND MARKET-BASED COMPLIANCE MECHANISMS REGULATION**

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider the proposed amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (Cap-and-Trade Regulation or Regulation).

DATE: October 25, 2018

TIME: 9:00 A.M.

LOCATION: California Environmental Protection Agency  
California Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, California 95814

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., October 25, 2018, and may continue at 8:30 a.m., October 26, 2018. Please consult the agenda for the hearing, which will be available at least ten days before October 25, 2018, to determine the day on which this item will be considered.

#### **WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS**

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on September 7, 2018. Written comments not physically submitted at the hearing must be submitted on or after September 7, 2018, and received **no later than 5:00 p.m. on** October 22, 2018. CARB requests that when possible, written and email statements be filed at least ten days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail: Clerk of the Board, California Air Resources Board  
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released

to the public upon request. Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

## **AUTHORITY AND REFERENCE**

This regulatory action is proposed under that authority granted in California Health and Safety Code, sections 38510, 38560, 38562, 38570, 38571, 38580, 39600, and 39601. This action is proposed to implement, interpret and make specific sections 38530, 38560.5, 38562, 38564, 38565, 38570, and 39600 of the Health and Safety Code and section 12894 of the Government Code.

## **INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW (GOV. CODE, § 11346.5, subd. (a)(3))**

**Sections Affected:** Proposed amendment to California Code of Regulations, title 17, sections 95802, 95811, 95812, 95813, 95820, 95830, 95831, 95833, 95834, 95841, 95841.1, 95851, 95852, 95854, 95856, 95870, 95871, 95890, 95891, 95892, 95893, 95894, 95911, 95912, 95913, 95914, 95920, 95921, 95942, 95943, 95973, 95974, 95976, 95977.1, 95979, 95981, 95981.1, 95982, 95983, 95984, 95985, 95987, 95990, 96011, 96014, 96021, 96022, Appendix B, and Appendix E, title 17, California Code of Regulations. Proposed adoption of California Code of Regulations, title 17, sections 95915 and 95989

## **Documents Incorporated by Reference (Cal. Code Regs., tit. 1, § 20, subd. (c)(3)):**

The following documents would be incorporated in the regulation by reference:

- CARB 2018: California Air Resources Board (2018). California Climate Investments Quantification Methodology Emission Factor Database Documentation. August 1, 2018:  
[https://www.arb.ca.gov/cc/capandtrade/auctionproceeds/cci\\_emissionfactordatabase\\_documentation.pdf?\\_ga=2.20689656.139777898.1531943067-662930638.1529680845](https://www.arb.ca.gov/cc/capandtrade/auctionproceeds/cci_emissionfactordatabase_documentation.pdf?_ga=2.20689656.139777898.1531943067-662930638.1529680845)
- California Energy Commission (CEC). 2017. Renewables Portfolio Standard Eligibility, 9<sup>th</sup> edition, Commission Guidebook, pp. 85-86. CEC-300-2016-ED9-CMF-REV. Released January, 2017:  
<http://docketpublic.energy.ca.gov/PublicDocuments/16-RPS-01/TN217317%2020170427T142045%20RPS%20Eligibility%20Guidebook%20Ninth%20Edition%20Revised.pdf>
- United States Environmental Protection Agency. Mandatory Reporting of Greenhouse Gases; Final Rule. Title 40 Code of Federal Regulations, Part 98, Subpart C, Table C-1 (pg. 444-445). Last amended December 17, 2010.  
<https://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol21/pdf/CFR-2011-title40-vol21-part98-subpartC.pdf>

## **Background and Effect of the Proposed Regulatory Action:**

The California Global Warming Solutions Act of 2006 (Assembly Bill 32; Chapter 488, Statutes of 2006), which is codified at California Health and Safety Code sections 38500 et seq., requires California to reduce greenhouse gas (GHG) emissions to 1990 levels by 2020, to maintain and continue GHG emissions reductions beyond 2020, and to develop a comprehensive strategy to reduce dependence on fossil fuels, stimulate investment in clean and efficient technologies, and improve air quality and public health. It identifies CARB as the State agency charged with monitoring and regulating sources of the GHG emissions that cause climate change. Assembly Bill (AB) 32 also requires CARB to work with other jurisdictions to identify and facilitate the development of integrated and cost-effective regional, national, and international GHG reduction programs. Furthermore, AB 32 authorizes CARB to utilize a market-based mechanism to reduce GHG emissions, and CARB promulgated the Cap-and-Trade Regulation pursuant to this authority.

The Legislature reaffirmed California's commitment to taking action against climate change by adopting Senate Bill (SB) 32 (Chapter 250, Statutes of 2016), which further directs CARB to ensure that statewide GHG emissions are reduced to at least 40 percent below the 1990 level no later than December 31, 2030. In addition, AB 398 (Chapter 135, Statutes of 2017) amends certain provisions of AB 32 to take effect starting January 1, 2021, and clarifies the role of the Cap-and-Trade Program in achieving the 2030 GHG reduction target.

The Regulation establishes a declining limit on major sources of GHG emissions, and it creates a powerful economic incentive for significant investment in cleaner, more efficient technologies. The Cap-and-Trade Program (Program) applies to emissions that cover approximately 80 percent of the State's GHG emissions. CARB creates allowances equal to the total amount of permissible emissions (i.e., the "cap"). One allowance equals one metric ton of carbon dioxide equivalent emissions (using the 100-year global warming potentials). Fewer allowances are created each year, thus the annual cap declines. An increasing annual Auction Reserve (or floor) Price for allowances and the reduction in annual allowance budgets creates a steady and sustained carbon price signal to prompt action to reduce GHG emissions. All covered entities in the Cap-and-Trade Program are still subject to air quality permit limits for criteria and toxic air pollutants.

The Program is designed to achieve the most cost-effective statewide GHG emissions reductions; there are no individual or facility-specific emissions reduction requirements. Each entity covered by the Regulation has a compliance obligation that is equivalent to its covered GHG emissions over a compliance period, and entities are required to meet that compliance obligation by acquiring and surrendering allowances in an amount equal to their compliance obligation. Covered entities can also meet a limited portion of their compliance obligation by acquiring and surrendering offset credits, which are compliance instruments that are issued for rigorously verified emission reductions that occur from projects outside the scope of the Program. Like allowances, each offset credit is equal to one metric ton of carbon dioxide equivalent emissions. The Program

began in January 2013 and achieved a near 100 percent compliance rate for the first compliance period (2013-2014), as well as for the first two years of the second compliance period (2015-2017).

Allowances are issued by CARB and distributed by free allocation – to minimize leakage and protect utility ratepayers – and by sale at auctions. Offset credits are issued by CARB to qualifying offset projects. Secondary markets exist where allowances and offset credits may be sold and traded among Program participants. Covered entities must submit allowances and offsets to account for their GHG emissions. Entities have flexibility to choose the lowest-cost approach to achieving Program compliance; they may take steps to reduce emissions at their own facilities, purchase allowances at auction, or trade allowances and offset credits with others. Monies from the sale of State-owned allowances at auction are placed into the Greenhouse Gas Reduction Fund (GGRF) and are appropriated, through the State budget process, consistent with State law to further the purposes of AB 32.

The Program is also designed to accommodate regional trading programs. On January 1, 2014, California and Québec linked their respective cap-and-trade programs. On January 1, 2018, the Program linked with the cap-and-trade program in Ontario. As described later in this Notice, the proposed amendments will include amendments related to the linkage with Ontario to reflect recent changes undertaken by Ontario with respect to its cap-and-trade program.

The Regulation was first adopted by the Board in October 2011, and it took effect January 1, 2012. Since its initial adoption, the Regulation has been amended to streamline Program requirements, include linkage with Québec, and incorporate new mandates. These amendments were approved in 2013, 2014, and 2015. In 2016, CARB staff proposed amendments to clarify compliance obligations for certain sectors; continue Program linkage with Québec beyond 2020; link the Program with the new cap-and-trade program in Ontario beginning January 2018; and establish a post-2020 framework for caps, enabling future auction and allocation of allowances, and continuing all other provisions needed to implement the Program after 2020. The Board adopted these amendments on July 27, 2017, and they went into effect on October 1, 2017. The Board recognized that additional modifications to the Program are required through a new rulemaking process to implement the AB 398 requirements for the post-2020 Cap-and-Trade Program. Board Resolution 17-21 directed the Executive Officer to initiate this rulemaking process. The current Regulation that is in force, including these 2016 amendments, is the starting point for the current amendment process.<sup>1</sup>

The full regulatory record and background for these previous Cap-and-Trade Regulation rulemakings is available at the main Cap-and-Trade Program webpage.<sup>2</sup>

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<sup>1</sup> In January 2018, CARB staff proposed a narrow set of amendments to ensure that the responsibility to meet compliance obligations is transferred to new owners along with assets during an ownership change process and clarify the regulatory procedure for establishing the Auction Reserve Price. The Board approved these amendments on March 22, 2018, and they went into effect on May 30, 2018.

<sup>2</sup> More information about prior rulemakings can be found at  
<https://www.arb.ca.gov/cc/capandtrade/capandtrade.htm>.

The proposed amendments include CARB staff's proposal to amend the Cap-and-Trade Regulation to make the Program consistent with AB 398 requirements and respond to Board direction. Specifically, the proposed amendments would update existing provisions to ensure appropriate allowance allocation to provide transition assistance and minimize emissions leakage, clarify allowed use of allocated allowance value, add a price ceiling and two Reserve tiers post-2020, revise quantitative offset usage limits and implement "direct environmental benefits in the state" (DEBS) provisions for offset credits, establish a process to assess compliance obligations for GHG emissions associated with electricity imported through the Energy Imbalance Market (EIM), and enhance CARB's ability to implement and oversee the Regulation. In doing so, the proposed amendments will enable the Program to continue to reduce GHG emissions while minimizing emissions leakage and benefitting the California economy through investment in clean energy technologies.

The proposed amendments will also continue the existing linkage with the Québec program, and will modify provisions related to the linkage with Ontario to de-link with Ontario's program to reflect recent changes undertaken by Ontario to suspend the Ontario cap-and-trade program effective July 3, 2018. Given that the changes underway in Ontario are ongoing, additional changes may also be proposed as part of a 15-day public notice and comment period for this rulemaking process taking into account the latest actions undertaken by the Ontario government. CARB may also consider other changes to the sections affected, as listed on page 2 of this notice, during the course of this rulemaking process.

In developing the amendments proposed in this Notice, CARB staff held a total of four publicly noticed workshops from October 2017 through June 2018 in which staff presented initial regulatory concepts and publicly discussed them with interested stakeholders. In conjunction with these workshops, CARB released two discussion drafts of possible changes to regulatory language, a concept paper on price containment, supporting material for assessing post-2020 caps, and a summary of stakeholder comments received. Each workshop was followed by a two-week informal public comment period and all materials and public comments are available on the Cap-and-Trade Program's Public Meetings web page.<sup>3</sup> In addition, CARB staff held numerous informal meetings with stakeholders to discuss specific topics related to the proposed amendments. These forums provided CARB staff and stakeholders with opportunities to present and discuss initial regulatory concepts and potential alternatives. The timeframe of the workshops and meetings allowed CARB to incorporate stakeholder feedback and alternatives into the proposed amendments. Over 180 distinct comments were received in response to the workshops.<sup>4</sup> For more information on the public process for these proposed amendments, please refer to Chapter I of the Staff Report and Appendix E: Public Process of the Staff Report.

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<sup>3</sup> Workshop comments, presentations and other materials can be found on the Cap-and-Trade website at <https://www.arb.ca.gov/cc/capandtrade/meetings/meetings.htm>.

<sup>4</sup> Workshop comments, presentations and other materials can be found on the Cap-and-Trade website at <https://www.arb.ca.gov/cc/capandtrade/meetings/meetings.htm>.

In addition, since January 1, 2018, CARB has participated in three legislative hearings related to the Cap-and-Trade Program and topics addressed in this rulemaking. Two hearings were held by the Joint Legislative Committee on Climate Change and one by the Senate Environmental Quality Committee.<sup>5</sup>

### **Objectives and Benefits of the Proposed Regulatory Action:**

CARB staff is proposing these amendments primarily to conform with AB 398 requirements and respond to direction in Board Resolution 17-21. To make the Program consistent with AB 398 requirements, the proposed amendments add a price ceiling and two Reserve tiers post-2020;<sup>6</sup> revise quantitative offset usage limits and implement “direct environmental benefits in the state” (DEBS) provisions for offset credits post-2020; and revise the post-2020 assistance factors for allowance allocation. To respond to Board direction, the proposed amendments update existing provisions to ensure appropriate allowance allocation for transition assistance and leakage minimization and to clarify allowed use of allocated allowance value. Staff also proposes other revisions to clarify and streamline Program requirements and ensure proper assessments of compliance obligations. These revisions establish a process to assess compliance obligations for GHG emissions associated with electricity imported through the EIM; revise and clarify offset implementation requirements; and streamline registration, auction participation, and other Program processes. In doing so, the proposed amendments will enable the Program to continue to reduce GHG emissions while minimizing emissions leakage and benefitting the California economy through investment in clean energy technologies. As described above, the proposed amendments will also continue the existing linkage with the Québec program and modify provisions related to the linkage with Ontario to de-link with the Ontario cap-and-trade program.

Although the proposed amendments are not modifying the post-2020 caps or expected statewide GHG emissions reductions from the amendments approved in 2017, anticipated benefits include further clarifications to the Regulation’s cost containment provisions to provide more robust cost-containment. Given that the proposed amendments will continue to ensure the GHG emissions reductions required by the Program, these amendments may also protect public health and safety, worker safety, and the State’s environment. Additional benefits include improved clarity for covered entities. The proposed amendments will also ensure appropriate accounting for covered emissions and compliance obligations.

Specific discussion of the proposed amendments to the Cap-and-Trade Regulation follows. A detailed description of the proposed amendments is provided in Chapter II of

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<sup>5</sup> More information can be found at <http://climatechangepolicies.legislature.ca.gov/previous-hearings> and <https://senv.senate.ca.gov/informationalhearings>.

<sup>6</sup> Consistent with terminology used during the informal public process, for the purposes of this document, “current Reserve” means the existing allowance price containment reserve with three price tiers which is in effect until 2020, “post-2020 Reserve” means the collapsed single tier reserve as currently included in the Cap-and-Trade Regulation for post-2020, and “new post-2020 Reserve” means the two tier reserve structure as directed in AB 398.

the “Staff Report: Initial Statement of Reasons for Rulemaking—Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation,” referred to as the ISOR. The Proposed Regulation Order is Appendix A of the ISOR.

### ***Cost Containment Post-2020***

Staff is proposing amendments to implement AB 398 directives on cost containment. This section of the notice first describes the cost containment system as it currently exists in 2018, and how it would have evolved under the existing Regulation through 2030. The next part describes the proposed amendments, beginning with the structure of the new post-2020 Reserve and price ceiling as well as the distribution of allowances among the new price containment points, which are referred to as new post-2020 Reserve tiers. Finally, this section of the notice explains how the pricing system is designed to support the introduction of new abatement technologies and ensure that emissions reductions are incentivized.

#### **a. Structure and Operation of the Reserve in the Existing Regulation**

The Allowance Price Containment Reserve (Reserve) contains California-issued allowances that are available for purchase by California covered entities at four scheduled Reserve sales each year. The allowances are divided equally among three Reserve tiers, each containing 40.6 million allowances. The tier prices were originally set at \$40, \$45, and \$50 in 2013. Prices escalate each year by 5 percent and are also adjusted for inflation. To date, no Reserve sales have been held and no Reserve allowances have been sold.

The current Reserve contains four percent of the allowances issued under the caps from 2013 through 2020. Diverting allowances to the Reserve reduced the number of compliance instruments available to the market, which could have increased market prices. To avoid this impact, CARB simultaneously increased the quantitative offset usage limit from four percent to eight percent of the compliance obligation. The existing Regulation also provides that allowances remaining unsold at the current auction for more than 24 months are to be placed in the current Reserve. Staff estimate that, assuming auctions in 2018 and 2019 are fully subscribed, approximately 39 million allowances may be placed in the current Reserve prior to 2021.

The regulatory amendments approved in 2017 included revisions to the operation of the Reserve that were scheduled to take effect beginning in 2021. The scheduled changes would collapse the three tiers of the current Reserve into a single tier, post-2020 Reserve. These existing regulatory provisions would replace the scheduled increases in the Reserve tier prices starting in 2021 with a mechanism that sets the single Reserve sale price as the sum of the annual Auction Reserve Price and a fixed real dollar amount of approximately \$60. CARB would adjust the fixed difference between the two prices for inflation to maintain the difference in constant (real)

dollars. Under the current Regulation, the single tier Reserve price would approximately be \$75 in 2021 (real 2018 dollars).

Under the existing Regulation, if the top (third) tier of the Reserve is depleted, CARB may offer allowances for sale at the last Reserve sale before a compliance event from future allowance budget years that are not already allocated to the Reserve. The number of allowances that may be borrowed from future budget years is equal to 10 percent of the annual allowance budget from which they are drawn.

b. Proposed Amendments to the Reserve in this Rulemaking

AB 398 requires CARB to extensively modify the cost containment system. First, AB 398 directs CARB to create a price ceiling in 2021, which will ensure covered entities will never have to pay above a set price for compliance instruments. In setting the price ceiling, AB 398 requires CARB to take into account multiple factors including impacts on the state's economy, the current Reserve tier prices in 2020, the social cost of carbon, the Auction Reserve Prices, environmental and economic leakage, and the cost per metric ton of emissions reductions. Staff's assessment of each of these factors is described in greater detail in the ISOR.

In addition, AB 398 directs CARB to remove some allowances from the current Reserve and only make them available at the price ceiling. In the event the allowances available in the new post-2020 Reserve and the price ceiling are depleted, AB 398 directs CARB to make available to covered entities additional tons that represent reductions that are real, permanent, quantifiable, verifiable and enforceable by the State board that are in addition to any greenhouse gas emission reduction otherwise required by law or regulation and any other greenhouse gas emission reduction that would otherwise occur. To implement this directive, staff is proposing a price ceiling and a process for conducting sales at the price ceiling of allowances and price ceiling units pursuant to proposed Regulation section 95915. For the rest of this Notice, and in the proposed amendments, the additional tons of reductions are referred to as "price ceiling units."

AB 398 also directs CARB to establish in 2021 two new "price containment points" at levels below the price ceiling. Allowances from the current Reserve, allowances allocated to the post-2020 Reserve, and allowances that remain unsold at auction for more than 24 months beginning in 2021 will be made available for sale at these two price containment points. Staff is proposing to implement these two price containment points within the existing structure of the Reserve, so in the remainder of this Notice staff will refer to these as the two "new post-2020 Reserve tiers."

Table 1 presents the proposed new post-2020 Reserve tier and price ceiling prices for 2021 in real 2018 dollars. The proposed amendments themselves set the value for 2021 at \$65 (i.e., \$65 in real 2021 dollars), and specify that this value will be escalated each year by 5 percent plus the rate of inflation. Maintaining the consistent escalation between the Auction Reserve Price and price ceiling allows for the two new post-2020 Reserve tiers to operate at a fixed distance between the two points. Otherwise, in later

years, the two new post-2020 Reserve tiers will converge into the price ceiling, thereby negating the effectiveness of the Reserve price tiers to slow the acceleration of allowance prices.

**Table 1. Proposed New Post-2020 Reserve Tier Prices and Price Ceiling (\$2018)**

Year	Auction Reserve Price	Tier Price 1	Tier Price 2	Price Ceiling
2021	\$ 16.77	\$ 39.01	\$ 50.13	\$ 61.25

Table 2 shows the allowances available for sale at the three Reserve tiers through 2020, and in the two new post-2020 Reserve tiers and price ceiling after 2020 pursuant to AB 398. In particular, AB 398 requires the distribution of two-thirds of Reserve allowances that remained in the Reserve as of December 17, 2017 to be divided equally into the two new post-2020 Reserve tiers. As such, these allowances are no longer available for Reserve sales until 2021.

All allowances remaining available in the current Reserve as of December 31, 2020 (e.g., the one-third that remained available for sale) are to be made available for sale at the price ceiling starting in 2021.

**Table 2. Distribution of Allowances in Current and AB 398 Reserve Mechanisms**

Tier	Current Reserve (Through 2020)	AB 398 New Post-2020 Reserve
	(millions)	
1	53.6 <sup>a</sup>	40.6 + 26.2 <sup>b</sup>
2	53.6 <sup>a</sup>	40.6 + 26.2 <sup>b</sup> + 22.7 <sup>c</sup>
3	53.6 <sup>a</sup>	NA
Price Ceiling	none	79.6 (40.6, 39 unsold)
Additional tons	none	Price Ceiling Units
<b>Total Allowances</b>	<b>160.8</b>	<b>235.9<sup>d</sup></b>

<sup>a</sup> Includes an estimated 39M (divided equally in each tier) pre-2021 allowances that currently remain unsold at auction for greater than 24 months.

<sup>b</sup> Includes addition of 52.4M allowances designated to the Reserve starting in 2021.

<sup>c</sup> 22.7 million additional allowances represent increase in offset limit from 4 to 6 percent.

<sup>d</sup> Plus all price ceiling units requested for compliance by covered entities if allowances in new post-2020 Reserve tiers and price ceiling are exhausted.

Source: CARB staff estimates

Table 2 also reflects proposed amendments to allocate an additional 22.7 million allowances to the second new post-2020 Reserve tier to reflect the change in the quantitative offset usage limit from 4 percent to 6 percent in 2026, consistent with the original rationale for funding the Reserve described above. This proposed change is described in greater detail in the ISOR.

Staff is also proposing amendments to the existing Regulation to implement a requirement in AB 398 that after 2020, allowances that remain unsold at the Current

Auction for more than 24 months will be transferred to the Reserve. Both the existing Regulation and AB 398 reallocate current vintage allowances that remain unsold at the Current Auction for more than 24 months to the Reserve. Prior to 2021, current vintage allowances that remain unsold at the Current Auction for more than 24 months will be divided evenly among the three Reserve tiers. If these remain in the Reserve as of December 31, 2020, they will be placed into the price ceiling. Allowances that may remain unsold for more than 24 months after 2020 will be evenly divided between the two new post-2020 Reserve tiers.

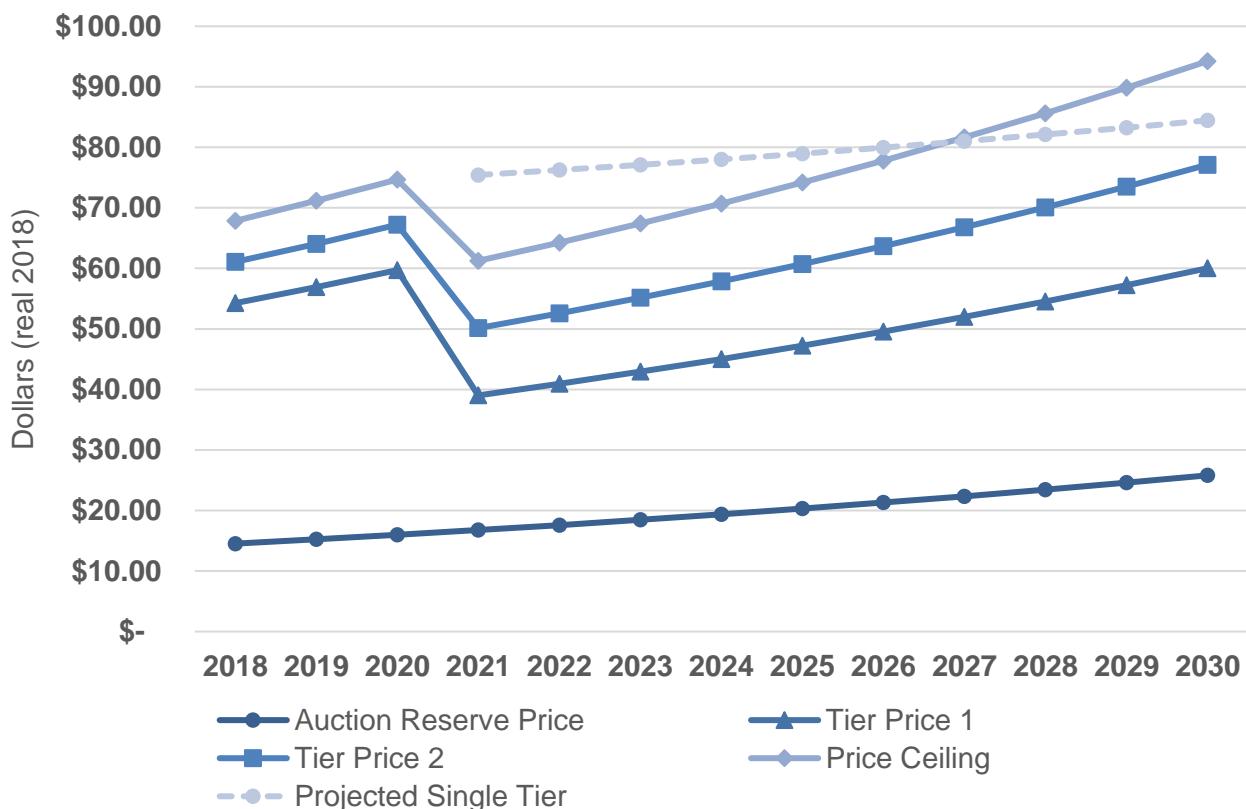
#### *Setting the New Post-2020 Reserve Tier and Price Ceiling Prices*

As described above, AB 398 contained several factors to guide CARB in setting the price ceiling. Staff's assessment of each of these factors is described in greater detail in the ISOR.

AB 398 directed CARB to establish a price ceiling from which covered entities could purchase allowances and price ceiling units, as needed, on a metric-ton per metric-ton basis to ensure compliance. This would set a fixed limit to the prices covered entities would have to pay to ensure compliance. If staff sets this price too high, the price ceiling would not provide effective cost containment, risking economic leakage and adverse impacts on resident households, businesses, and the State's economy. If staff sets this price too low, then market prices would never reach the levels needed to incent investment in emissions reduction technologies. Setting the price too low could also risk not meeting other AB 398 directives to consider the social cost of carbon or ensuring reductions are achieved to meet the 2030 target.

Figure A shows the resulting price trajectories in real 2018 dollars. The figure depicts the current Reserve tiers between 2018-2020, and extends those three points into the proposed new-post-2020 tiers and price ceiling for ease of comparison. The proposed price ceiling and two new-post-2020 Reserve tiers are significantly lower relative to the projected post-2020 Reserve tier in 2021, and the 2021 proposed values are well below the current Reserve tier prices in 2020. The figure also shows that the proposed price ceiling would be below the post-2020 projected single tier Reserve value until 2026, at which time it increases slightly above the post-2020 projected single tier Reserve value from 2027 until 2030. The proposed new post-2020 Reserve tiers would remain below the post-2020 projected single tier Reserve value throughout the 2020s. Finally, relative to each other, the Reserve tiers and price ceiling are spaced further apart than under the existing Regulation.

**Figure A. Proposed Price Structure for New Post-2020 Reserve and Price Ceiling**



In total, the staff proposal achieves the following outcomes:

- The price ceiling provides a firm limit on the cost of complying with the Program and is a cost-containment mechanism, in the unlikely event that allowance prices, or the cost of achieving GHG emissions reductions under the Program, are higher than anticipated.
- The structure of the post-2020 Reserve tiers and the number of allowances in each tier ensures that if allowances prices rise, they will rise steadily which allows the market time to react and find additional GHG reduction technologies or opportunities if allowance prices increase. While some stakeholders may be concerned by the spacing and desire for larger tiers at lower allowance prices, the proposal does not retire or remove any unused pre-2021 allowances and at least 150 million unused allowances from 2013 through 2020 may remain available in the post-2020 Program – potentially reducing the allowance price.
- The Reserve limits the ability of businesses to manipulate and quickly increase allowance prices by injecting 66 million and 90 million allowances into the market at prices that are lower than the current Regulation's single Reserve tier. The availability of these allowances limits the ability of businesses to profit from even short-term market manipulation as compliance entities will now have a known source of allowances dedicated for compliance uses through the Reserve tiers and price ceiling. The Reserve allowances also serve to regulate and dampen potential allowance price increases, allowing covered entities to reassess and implement newly cost-effective GHG reductions.

- The price ceiling provides a strong price signal for GHG emissions reductions that is in line with the valuation of the benefits of GHG emissions reductions as currently estimated through the social cost of carbon and other co-benefits.

The new post-2020 Reserve and price ceiling work in coordination with other features of the Program that provide compliance flexibility to meet the 2030 target reliably and cost effectively. These include banked allowances (including a substantial number of allowances that can be banked forward into the post-2020 Program based on early reductions), use of a limited number of offsets, multi-year compliance periods, and the broad scope that identifies a diverse set of sources with a range of emission reduction opportunities. Additionally, the Program includes industrial allocation and the residential climate credit, which work to reduce the cost burden of allowance prices to covered entities and residents of the state.

### ***Offsets and Offset Program Implementation***

Staff proposes amendments to comply with AB 398 direction to “[e]stablish offset credit limits according to the following: (I) From January 1, 2021, to December 31, 2025, inclusive, a total of 4 percent of a covered entity’s compliance obligation may be met by surrendering offset credits of which no more than one-half may be sourced from projects that do not provide direct environmental benefits in state. (II) From January 1, 2026, to December 31, 2030, inclusive, a total of 6 percent of a covered entity’s compliance obligation may be met by surrendering offset credits of which no more than one-half may be sourced from projects that do not provide direct environmental benefits in the state.”

The proposed amendments specify that the quantitative offset usage limit will be four percent for emissions from 2021 to 2025 and six percent for emissions from 2026 to 2030. The proposed regulatory language specifies that the offset credit limits apply to emissions in the years specified by AB 398, because the years in which covered emissions occur differ from the years in which the compliance instruments (including offsets) are submitted to CARB to meet compliance obligations.

The proposed amendments also specify that all offset projects in the State automatically provide direct environmental benefits in the State (DEBS). As described in greater detail in the ISOR, CARB’s currently approved Compliance Offset Protocols ensure that projects located in the State provide for the reduction or avoidance of air pollutants in the State beyond the GHGs for which the project is credited, and/or the reduction or avoidance of pollutants that could have an adverse impact on waters of the State. The proposed amendments also specify a process for out-of-state offset projects to provide documentation to CARB to make a demonstration that they also provide DEBS. Pursuant to the proposed amendments, this documentation should be in the form of peer-reviewed scientific papers, reports from governmental or multinational bodies, or project specific data. New offset projects would be required to submit the documentation with the first reporting period, while existing offset projects would be required to submit the documentation by December 31, 2021.

The proposed regulatory language also specifies that up to one half of a covered entity's quantitative offset usage limit may be met by ARB offset credits that do not provide DEBS.

Staff also proposes amendments that clarify definitions, timing, and processes related to the Compliance Offset Program. The proposed amendments clarify successor liability in cases of intentional reversals and invalidation; allow for CARB approval of alternative methods to obtain measurement and monitoring data required by the Compliance Offset Protocols; remove the requirement for de minimis errors, less than 3%, to be corrected in the Offset Project Data Report; and revise the regulatory compliance and invalidation sections to clarify which violations are not project-related, to clarify the end date of noncompliance, and to limit the time period U.S. Forest projects are ineligible for ARB offset credits to the time period the project is actually out of regulatory compliance.

### ***Allowance Allocation***

Staff proposes to retain the same general approaches to calculating allowance allocation to industrial covered entities, electrical distribution utilities (EDUs), natural gas suppliers, and other entities. However, some changes to allowance allocation provisions are proposed. Some of these changes affect the third compliance period, some affect the post-2020 period, and some affect both. Proposed amendments that would affect the Program starting in the third compliance period would provide allowance allocation for transition assistance to waste-to-energy facilities; revise assistance factors used to calculate allocation for low- and medium- leakage risk industrial sectors; and revise allocation methodologies to reflect these and other circumstances, such as new entrants to the Program. Proposed amendments that would affect the post-2020 period of the Program starting January 1, 2021 include providing transition assistance to legacy contract generators with non-industrial counterparties; updating cap adjustment factors for certain industrial sectors; and making allowance allocation assistance factors 100 percent for all industrial sectors. Updates that are not linked to a specific period of the Program clarify allowable uses of allowance value allocated to EDUs and natural gas suppliers.

The proposed amendments specific to waste-to-energy facilities respond to Board Resolution 17-21 direction to "provide transition assistance for a compliance obligation beginning in 2018 and ending when landfill diversion is required to achieve a 75 percent diversion rate by 2025." Staff proposes amendments that provide for allowance allocation to waste-to-energy facilities during the 2018-2020 and post-2020 periods, specify eligibility criteria for waste-to-energy facilities to receive allowance allocation, and specify an allowance allocation calculation methodology for these facilities. Because the waste-to-energy facility exemption has expired, the proposed amendments remove provisions exempting waste-to-energy facilities from the Program.

Staff proposes changes to the energy-based allocation methodology to include process emissions in the calculation of allowance allocation and to create a true-up allocation provision for certain years. Adding process emissions will provide appropriate leakage protection to industrial facilities that have significant process emissions and receive

energy-based allowance allocation. This will provide equal treatment of process emissions under the product-based and energy-based allocation methodologies. Staff also propose amendments to add a limited true-up provision to the energy-based allocation methodology for allocation of vintage 2020 and 2021 allowances to true up the initial vintage 2018 and 2019 allowance allocation to reflect the change in 2018 to 2020 assistance factors. The initial allocation of vintage 2018 and 2019 allowances will be calculated using assistance factors that are proposed to be revised in this amendment process, and adding the limited true-up mechanism to the energy-based allocation methodology will ensure that covered entities in affected sectors will receive the appropriate level of allowance allocation for leakage prevention.

Board Resolution 17-21 directed CARB staff to “...work with any remaining entities with legacy contracts and their non-industrial counterparties to resolve the parties' issues related to recovery of greenhouse gas costs, or, as necessary, to propose regulatory amendments to be in place no later than the allocation of vintage 2021 allowances to ensure reasonable transition assistance for greenhouse gas costs throughout the term of the legacy contract.” The amendments propose allocation for legacy contract transition assistance starting with vintage 2021 allowance allocation for any entity whose legacy contract with a non-industrial counterparty remains in place after 2020. Entities with legacy contracts with *industrial* counterparties will not be affected by this change. Under the proposed amendments, certain past legacy contract generators, with and without industrial counterparties, that had lower allocations based on CARB's expectation that their contract allowed for some GHG cost pass-through, will receive a true-up allowance allocation based on more recent information regarding GHG cost pass-through.

The proposed amendments also respond to Board Resolution 17-21 direction to “...evaluate and propose, as necessary, post-2020 cap adjustment factors consistent with the methodology used in 2015-2017 allocation.” CARB staff applied 2012-2015 data and used the same criteria and methodologies (over 50 percent of the sector's total emissions are from process emissions, the sector has high emissions intensity, and the sector has a high leakage risk classification) as for 2015-2017 in order to identify industrial activities eligible for alternate cap adjustment factors post-2020. Staff proposes to extend the alternative, more slowly declining, cap adjustment factors in Table 9-2 through 2030 for industrial facilities conducting activities that meet the three eligibility criteria, indicating an especially high leakage risk. The proposed post-2020 alternative cap adjustment factors decline at half the rate of the standard cap adjustment factors consistent with the pre-2020 period of the Program. CARB staff assessed industrial sectors for eligibility for alternate cap adjustment factors at the 6-digit North American Industry Classification System (NAICS) code level with the exception of coke calcining because facilities in this sector demonstrated that their activities are not accurately characterized by their specific 6-digit NAICS code, and coke calcining facilities submitted 2012-2015 facility-specific data to CARB to enable the assessment for that sector. Staff finds the following industrial activities are eligible for alternate cap adjustment factors in the post-2020 period: coke calcining under the NAICS code 324199 (All Other Petroleum and Coal Products Manufacturing), activities under the NAICS code 325311 (Nitrogenous Fertilizer Manufacturing), activities under

the NAICS code 327311 (Cement Manufacturing), and activities under the NAICS code 327410 (Lime Manufacturing).

For allocation to industrial covered entities, staff proposes amendments to adjust assistance factors for the third compliance period and set new assistance factors for the post-2020 period. The proposed amendments revise Table 8-1 to set assistance factors for all sectors at 100 percent for the period 2021 to 2030 in order to comply with AB 398 direction to “[s]et industry assistance factors for allowance allocation commencing in 2021 at the levels applicable in the compliance period of 2015 to 2017 [i.e., 100 percent], inclusive.” For 2018 to 2020 assistance factors, Board Resolution 17-21 directed staff to “... propose subsequent regulatory amendments to provide a quantity of allocation, for the purposes of minimizing emissions leakage, to industrial entities for 2018 through 2020 by using the same assistance factors in place for 2013 through 2017 [100 percent].” Staff considered past rulemaking approaches, which proposed to reduce assistance factors each compliance period as there was an expectation for carbon pricing or carbon regulations to phase-in in other regions, which would reduce leakage risk. Given Board direction, the AB 398 requirement to set post-2020 assistance factors to 100 percent, the transition between 2020 and 2021 when the caps begin declining at a steeper rate, and the slow rate of other jurisdictions adopting carbon pricing policies, staff proposes amendments to revise the assistance factors for all industrial sectors to 100 percent for the third compliance period, 2018 through 2020.

Amendments also propose, in limited circumstances, to expand the MRR data years that CARB may employ when determining baseline values used for allocation to university covered entities and public service facilities. The current Regulation limits staff to using data reported through MRR for the years 2008–2013 when determining allocation baselines. In limited cases where a change in facility ownership causes a university or public service facility to transition from an opt-in covered entity to covered entity, staff proposes to allow consideration of all MRR data when determining baseline allocation values. This change will provide staff needed flexibility to provide an appropriate level of transition assistance to such covered entities.

Staff proposes to extend the application deadline for the limited exemption from a compliance obligation for emissions from the production of qualified thermal output from September 2, 2014 to September 2, 2020 to provide an additional opportunity for entities that potentially qualify for this exemption, but have not previously applied for it, to request the exemption.

Staff proposes to add the new industrial activity “Textile and Fabric Finishing Mills” (NAICS code 313310) to Table 8-1 and to set assistance factors for this activity at 100 percent through 2030 as for all other industrial sectors. In the absence of complete information on leakage risk, this newly added sector is listed with a “TBD” leakage risk category, and a footnote is added to the table stating that staff may propose a leakage risk classification as part of this rulemaking process and that any proposed change will be circulated for a 15-day public comment period. The proposed amendments also add the general activity “Nitrogenous Fertilizer Manufacturing” to the sector “Nitrogenous Fertilizer Manufacturing” (NAICS code 325311) and the general activity “Lime

Manufacturing” to the sector “Lime Manufacturing” (NAICS code 327410) in Table 8-1. The activities currently included in Table 8-1 for these sectors are specific to entities currently covered by the Program. Staff proposes to add new general activities to accommodate potential new entrant facilities that operate in the “Nitrogenous Fertilizer Manufacturing” and “Lime Manufacturing” sectors, but that do not conduct the activities currently included in Table 8-1 for these sectors.

### ***Use of Allowance Value Allocated to Electric and Gas Utilities***

Staff proposes amendments to clarify, enhance, and streamline the permissible use of allowance value allocated to electrical distribution utilities (EDUs) and natural gas (NG) suppliers (together, utilities). The State allocates allowances to these utilities for the purpose of benefitting their ratepayers consistent with the goals of AB 32. The proposed amendments provide additional detail regarding how utilities are allowed to use the value of these allowances, responding to utility requests for clarity. Reporting changes will streamline reporting processes while adding detail regarding how each use of allowance value is consistent with the goals of AB 32. The proposed amendments do not require publicly owned electrical utilities and electricity co-operatives to consign allocated allowances to auction, as contemplated in the Board Resolution.

Currently, EDUs and NG suppliers are required to report annually to CARB on their use of allocated allowance value during the previous year. Staff reviews and assesses the reported uses of allocated allowance value each year and has identified a need to improve the consistency and transparency of the use of this value. The proposed amendments clarify and further specify the current Regulation requirements that uses of allowance value must benefit ratepayers and be consistent with the goals of AB 32 by enumerating the types of activities that meet these requirements. The changes provide a framework for allowable uses of auction proceeds that focuses on the core purposes of allowance allocation to these entities—benefitting ratepayers and reducing GHG emissions—while maintaining flexibility in the use of allowance proceeds.

The proposed amendments continue to allow a range of uses of allowance value. Under the proposed amendments, expenditure of EDU allocated allowance proceeds must fall into one of four general categories that benefit ratepayers and are consistent with the goals of AB 32: renewable energy, energy efficiency and fuel switching, other GHG reducing activities, and non-volumetric return of proceeds to ratepayers. Similarly, NG suppliers must use their allowance value for energy efficiency or other GHG reducing activities, or for non-volumetric return of proceeds to ratepayers. Allowance value may also be used for reasonable administrative and outreach costs necessary to implement these uses of allowance value. The proposed amendments also clarify particular activities that are not allowed uses of allowance value, including compliance activities, lobbying, and benefitting employees or shareholders.

Current reporting requirements require utilities to state how they used allowance value during the previous year and how that use of value complies with the requirements of AB 32. However, they do not enumerate how to fulfill these requirements. The proposed amendments require the reporting of estimated GHG reductions. The

proposed amendments also reorganize reporting requirements in order to clarify how expenditures of allocated allowance proceeds must be reported and what time periods they cover.

### ***Use of Allowance Value Deadline***

Staff proposes amendments to clarify the deadline for spending allocated allowance proceeds received prior to October 1, 2017 to ensure that this allocated value is utilized in a timely manner. The proposed amendments resolve potential ambiguity and clarify that allocated allowance proceeds received prior to October 1, 2017 must be spent within ten years of the effective date of the ten-year spending requirement, meaning they must be spent by December 31, 2027. The proposed ten-year deadline is consistent with the existing ten-year deadline for allowances proceeds received after October 1, 2017. In developing the deadline in the current Regulation, staff considered several options and determined that ten years provides an appropriate balance between enabling saving for a large capital project and providing benefit to ratepayers within a reasonable timeframe.

### ***Energy Imbalance Market***

Under AB 32, CARB must account for statewide GHG emissions, including all emissions resulting from the generation of electricity delivered to and consumed in California, whether that electricity is generated in-state or imported to California to serve California load. In 2015, CARB found that the design of the Energy Imbalance Market (EIM) does not account for the full GHG emissions experienced by the atmosphere from imported electricity under EIM and results in emissions leakage. CARB refers to these emissions as EIM Outstanding Emissions. Beginning in 2016, CAISO and CARB began coordinating to address GHG accounting inaccuracies in the EIM.

In 2017, CARB adopted amendments to implement a “bridge solution” to account for the full GHG emissions experienced by the atmosphere from imported electricity under the EIM. Under the “bridge solution,” CARB retires unsold allowances in proportion to EIM Outstanding Emissions. This approach captures EIM Outstanding Emissions under the emissions cap, but it does not assess a compliance obligation to any covered entity. The “bridge solution” is currently in effect, but was put in place only as a temporary solution.

Staff is proposing to implement an “EIM Purchaser” approach to assess a compliance obligation for EIM Outstanding Emissions. First proposed by CARB in 2016, this approach assigns a compliance obligation for EIM Outstanding Emissions directly to California EIM Purchasers as defined in the Regulation. This proposal is designed to ensure EIM Outstanding Emissions are included as a compliance obligation for those entities serving California load whose participation in the EIM results in those emissions. EIM Purchasers would include scheduling coordinators, such as electricity marketers and entities serving California load who purchase imported electricity in EIM. Under the proposed definition of EIM Purchaser, scheduling coordinators for electricity generators located in California with negative imbalances may also be considered EIM Purchasers

if they are serving those imbalances through imported electricity in EIM. There is no minimum emissions threshold for this EIM Purchaser compliance obligation. EIM Purchasers will be assessed an annual compliance obligation for their annual share of EIM Outstanding Emissions. EIM Purchasers will receive an EIM Purchaser compliance obligation beginning on April 1, 2019. This means that in 2020, EIM Purchasers will be assessed a compliance obligation for their share of EIM Outstanding Emissions from April 1, 2019 through December 31, 2019, and annually thereafter.

The proposed EIM Purchaser requirements allow CARB to fully account for GHG emissions resulting from electricity generated to serve California load by assessing a compliance obligation based on prior year reported data. CARB will continue to work with CAISO as it assesses how the EIM design could be enhanced to directly account for the full GHG emissions when determining which resources support California load, at which time the EIM Purchaser requirement would no longer be necessary.

In addition, the proposed amendments modify the “bridge solution” to address the potential shortfall of unsold allowances needed to meet the EIM Outstanding Emissions compliance obligation. To address this, staff is proposing to change the source of allowances that are retired by CARB to account for EIM Outstanding Emissions from unsold allowances to unassigned allowances from future budget years. Under the existing regulation allowances will be retired to account for 2017 EIM Outstanding Emissions from the pool of allowances that were previously unsold at auction. Following the implementation of the proposed amendments, allowances will be retired to account for 2018, and first quarter 2019, EIM Outstanding Emissions from the pool of unassigned allowances from future budget years.

### ***Voluntary Renewable Electricity Program***

Staff proposes amendments to make targeted, minor clarifications to the Voluntary Renewable Electricity (VRE) Program provisions of the Regulation. The proposed amendments clarify the documentation necessary to establish that a generator meets the eligibility requirements for VRE Program participation, provide clarity on the requirement that generation must not have served load prior to June 2005, and require applicants to include documentation of sales and purchase of the electricity or renewable energy credits. The proposed amendments also make administrative changes to the signature and attestation requirements to conform to the signature and attestation requirements in other sections of the current Regulation. The proposed amendments are not intended to modify any other aspect of the VRE requirements, including volume of allowances set aside for the VRE Program, or to change any accounting provisions.

### ***Registration in CITSS***

Staff proposes amendments to change tracking system registration requirements to improve efficiency of the user registration process, prevent accumulation of incomplete user registrations for individuals that do not complete the process, and clarify a tracking system restriction. The proposed amendments would allow CARB to deny user

registration if a registrant does not provide Know-Your-Customer documentation in a timely manner, and clarifies that an individual may only have one account in the tracking system, regardless of jurisdiction of registration.

### ***Auction and Reserve Sale Administration***

Staff proposes amendments that change the Auction Reserve Price announcement timing to allow for a joint announcement with linked jurisdictions each year, clarify the order of sale for allowances used to fulfill an untimely surrender obligation, and clarify the process for the disposition of these allowances if they remain unsold in an undersubscribed auction. In addition, the proposed amendments change the auction application requirements to clarify which application information the Executive Officer maintains and to remove the distinction between submitting an auction participant application and notifying the Auction Administrator of intent to bid in an auction. Entities must submit an auction participant application to notify the Auction Administrator of intent to bid.

The proposed amendments also clarify that letters of credit and bonds submitted as bid guarantees must allow the financial services administrator to make payment requests electronically via facsimile or other electronic forms accepted by the financial services administrator. Finally, the proposed amendments change Reserve sale application requirements to make them consistent with the auction application approval process, where applicable, and to reflect the actions required in the tracking system to facilitate participation in a Reserve sale.

### ***Program Administration***

To address outstanding compliance obligations owed by bankrupt entities, CARB staff proposes amendments to retire allowances from the allowance budget two years after the current allowance budget year that is not already allocated to entities starting in 2019. The use of future vintage allowances from the allowance budget two years after the current allowance budget guarantees a sufficient number of allowances that have yet to be allocated or auctioned to entities. Staff believe that the proposed requirements still achieve the targeted Program emissions cap, while addressing any unforeseen market impacts caused by bankruptcy cases. This would be the same mechanism as described above for retiring instruments to cover EIM Outstanding Emissions prior to the implementation of the EIM Purchaser Proposal.

The proposed amendments clarify that compliance instruments issued by CARB may only be used for the designated purposes in the Cap-and-Trade Program, and staff has proposed a modification to the Regulation to expressly state this. This provision is intended to clarify that a compliance instrument issued by CARB cannot be used solely to meet requirements in other regulatory programs; rather, it must be used to meet an authorized or required purpose of the Cap-and-Trade Program.

### ***Ontario Linkage***

On June 15, 2018, the Government of Ontario informed California and Québec that it would not participate in the August 2018 joint auction, and issued a press release indicating that Ontario would repeal its cap-and-trade program. In response, California and Québec modified the Compliance Instrument Tracking System Service (CITSS) to suspend transfers of compliance instruments between entities registered in Ontario and entities registered either in California or Québec. On July 3, 2018, the Ontario government published a regulation (386/18) revoking Ontario's cap-and-trade regulation (144/16). This regulation also prohibits Ontario's cap-and-trade participants from purchasing, selling, trading or otherwise dealing with emission allowances and credits (compliance instruments). Thus, Ontario has suspended all accounts registered in Ontario.

Based on these actions, staff proposes amendments to clarify provisions related to amending auction notices, as well as delaying, rescheduling, or canceling auctions. Staff is also proposing amendments to further clarify how the Executive Officer may exercise existing authority to protect the environmental stringency of the California Program. These proposed amendments also clarify that Ontario-issued compliance instruments currently held in California entity accounts continue to remain valid for compliance and trading, but no new transfers of instruments after June 15, 2018 would be accepted. The proposed amendments are intended to ensure that the market operates in a manner that is protective of the environmental stringency of the Program, while ensuring a careful approach to what is expected to be very limited circumstances in which the Executive Officer would need to take specified actions.

Finally, as of June 15, 2018, there were more compliance instruments held in California and Québec accounts than the total number of compliance instruments released by those two jurisdictions alone. This small surplus represents approximately 1 percent of the total allowances in California and Québec entity accounts for vintage years through 2021. Staff is proposing amendments to ensure the environmental stringency of the California Cap-and-Trade Program is maintained as if there had not been a linkage approved with the External GHG ETS, via the cancellation or issuance of additional allowances.

### ***Other Assessments***

AB 398 directs CARB to “[e]valuate and address concerns related to overallocation in the State board’s determination of the available allowances for years 2021 to 2030, inclusive, as appropriate.” It also directs CARB to “[e]stablish allowance banking rules that discourage speculation, avoid financial windfalls, and consider the impacts on complying entities and volatility in the market.” Following the four public workshops from October 2017 to June 2018, reassessment of existing cap setting and banking rules, and stakeholder comments, staff is not proposing any amendments to the banking rules or to the post-2020 allowance budgets approved by the Board in 2017. Staff has included an analysis of the stringency of the caps with respect to overallocation concerns and with respect to banking rules in Appendix D of the ISOR.

### **Comparable Federal Regulations:**

There are no directly comparable federal regulations mandating economy-wide Cap-and-Trade Programs. The proposed amendments continue to place a compliance obligation on large industrial sources, fuel suppliers, and electricity generators and importers for the GHG emissions associated with their current and future activities. The Cap-and-Trade Program and the present proposed amendments do not conflict with federal regulations.

### **An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):**

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing State regulations.

### **MANDATED BY FEDERAL LAW OR REGULATIONS (Gov. Code, §§ 11346.2, subd. (c), 11346.9)**

The proposed regulatory action is not generally mandated by federal law or regulations.

### **DISCLOSURE REGARDING THE PROPOSED REGULATION**

#### **Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subds. (a)(5)&(6)):**

The determinations of the Board's Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

#### ***Cost to any Local Agency or School District Requiring Reimbursement under section 17500 et seq.:***

Currently, some local government entities (e.g., local utilities) are regulated parties in the Program and would continue to have a compliance obligation under the proposed amendments. These local governments could face administrative costs as well as costs associated with obtaining and surrendering compliance instruments. There may be additional impacts based on the continuance and appropriation of GGRF funds (i.e., the State's portion of proceeds from Cap-and-Trade auctions) that are directed to local

government. However, pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed amendments would not create costs or mandate to any local agency or school district that are reimbursable by the State pursuant to Government Code, title 2, division 4, part 7 (commencing with section 17500).

Local government entities that purchase goods and fossil fuels in California, but are not directly covered by the Program, will face higher prices for fossil fuels and products that use fossil fuels if the cost of allowances under the proposed amendments are higher than under the current Program. However, the potential impact is unknown given uncertainty in future emissions and market conditions under the proposed amendments. Local governments could also benefit from new lower carbon technologies and innovations that may be indirect benefits of the proposed amendments. There may be additional impacts based on the continuance and appropriation of auction proceeds from the GGRF that are directed to local government.

Cost or Savings for State Agencies:

The Cap-and-Trade Program covers some State government entities. Examples of these entities include several University of California and California State University campuses, as well as the Department of State Hospitals. The direct fiscal year emissions obligation under the current Regulation to State Universities and the Department of State Hospitals would continue to be reduced by an allocation of free allowances. The allocation means that the State entities are not required to cover the full cost of their emissions obligation. Staff does not expect the proposed amendments to result in a significant change to compliance costs. Without a clear estimate of a changed allowance value, it is not possible to quantify the fiscal effect of the proposed amendments to State Universities and the Department of State Hospitals.

CARB staff has identified one potential EIM Purchaser that is a State entity. CARB staff expects the State entity to have a lower-than-average EIM Purchaser compliance obligation given the relative scale of electric load served in California by this and other EIM Purchasers. This data suggests the State entity may face between a \$0 and \$212,000 additional compliance obligation when evaluated at the 2018 Auction Reserve Price. As this supplemental compliance obligation would be a component of the total cost of its operations, staff anticipates the State entity could pass through the supplemental cost to its customers.

The proposed amendments would have minimal impact on CARB's staffing resources, which could be accommodated through a redistribution of existing staff. The fiscal impact of the proposed amendments for CARB is expected to be absorbable and will not result in requests for new positions.

*Other Non-Discretionary Costs or Savings on Local Agencies:*

No additional costs or savings to local agencies beyond those addressed above under “Cost to any Local Agency or School District Requiring Reimbursement under section 17500 et seq.” are anticipated.

*Cost or Savings in Federal Funding to the State:*

CARB staff has identified a federal entity that might be affected by the EIM Purchaser provision. Based on historical data, CARB staff expects the entity to have a lower-than-average EIM Purchaser compliance obligation given the relative scale of electric load served in California by this and other EIM Purchasers. This data suggests the State entity may face between a \$0 and \$213,000 additional compliance obligation when evaluated at the 2018 Auction Reserve Price. As this supplemental compliance obligation would be a component of the total cost of its operations, staff anticipates the State entity could pass through the supplemental cost to its customers.

**Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):**

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a direct impact on housing costs.

**Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):**

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

**Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):**

**MAJOR REGULATION: Statement of the Results of the Standardized Regulatory Impact Analysis (SRIA) (Gov. Code, § 11346.3, subd. (c)):**

On June 21, 2018, CARB submitted a Standardized Regulatory Impact Assessment (SRIA) to the California Department of Finance (DOF). DOF provided CARB with written comments on the SRIA on July 25, 2018. CARB has revised the SRIA based on modifications included in the proposed amendments since the original SRIA submittal and to address DOF comments. The revised SRIA is included as Appendix C to the ISOR.

CARB did not have a specific regulatory proposal on cost containment when staff submitted the original SRIA to DOF. Therefore, the original SRIA analysis was based on a range of price containment values that were intended to provide a range that staff

expected would contain the possible allowance prices that may be observed under the proposed amendments. Staff referred to the range of price containment values in the original SRIA as the two preferred alternatives. Staff conducted macroeconomic impact assessments based on this range, as well as on two other scenarios (called Alternatives 1 and 2) that provided an even wider range of cost containment values. The revised SRIA replaces the range of “preferred” alternatives with a single proposed set of values. Staff retains the two other scenarios as Alternatives 1 and 2.

A large number of factors influence allowance price, including the ease of substitution by firms to low-carbon production methods, consumer price response, and the pace of technological progress. A number of policy factors also affect the allowance price including methods for allocating allowances, the use of auction proceeds, and linkage with other jurisdictions, as well as factors such as the cost of GHG emission reduction technology, and potential impacts to the price of fuel. Impacts on California State Gross Domestic Product are small relative to the size of the California economy across the allowance prices analyzed.

(A) The creation or elimination of jobs within the State.

Staff expects no significant change to employment from the proposed amendments. The free allocation of allowances to some goods producing covered sectors is meant to help reduce the impact to the directly covered industrial sectors, by reducing compliance costs, thus reducing any negative effects on employment.

Other proposed changes (offsets, EIM, changes to the Reserve) could have minor positive effects on Program auction proceeds that are placed in the GGRF. Redistribution of allowance revenue has the potential to increase the number of jobs in the sectors that receive these funds.

(B) The creation of new businesses or the elimination of existing businesses within the State.

There is little potential to create and eliminate businesses. Free allocation of allowances to some goods producing covered sectors is meant to help reduce the impact to the directly covered industrial sectors. The proposed amendments restore post-2020 allocation, reducing the potential for elimination of businesses. However, the restoration of assistance factors is not expected to lead to the creation of new businesses.

As the proposed amendments provide compliance flexibility to covered entities, there may be business expansion or contraction as a result of the direct costs of compliance. The potential impact is unknown and not quantified in this analysis.

Changes to the quantitative offset usage limit and the direct environmental benefits in the State (DEBS) requirement should not have an effect on business creation or elimination if offset production and use for compliance remain at current rates. Offsets issued to date as a share of instruments required for compliance are below the levels at

which the changed quantitative offset usage limits and DEBS requirement would limit offset creation.

Changes to the Reserve structure would only have an effect on the elimination of businesses if prices were to increase above the single Reserve tier price that would have been in effect after 2021 under the current Regulation. This is unlikely because the proposed amendments also create two new post-2020 Reserve tiers that are below the planned single post-2020 Reserve tier price for the entire 2021 to 2030 time period. The new tiers should slow down price increases.

(C) The competitive advantages or disadvantages for businesses currently doing business within the State.

Staff expects no significant change to competitiveness from the proposed amendments. The free allocation of allowances to some goods producing covered sectors is meant to help reduce the impact to the directly covered industrial sectors, thus reducing any negative effects on competitiveness.

Staff does not expect a significant negative cost impact from the proposed amendment's other provisions, so there should not be a significant impact on competitiveness. See Chapter 8 of the ISOR for a further discussion of impacts to industry in the unlikely event that allowance values reach the price ceiling.

(D) The increase or decrease of investment in the State.

As with the 2016 rulemaking, while the SRIA does not attempt to quantify the dollar value benefits of the proposed amendments, the Program has been designed to support growth in activities that result in lower GHG emissions. Most benefits are an indirect result of the Program, as investments in energy efficiency and energy conservation can result in economic benefits to consumers and clean energy sectors.

Other businesses could experience indirect economic benefits as a result of cost-savings attributed to the operation of energy efficient technologies. There are likely no small businesses directly regulated by the Cap-and-Trade Program. However, small businesses could experience indirect economic benefits as a result of cost-savings attributed to the operation of energy efficient technologies and utility climate credits for small businesses. The proposed amendments may also benefit small businesses that produce or sell low-carbon technologies. In addition, emissions reductions achieved in sectors covered by the Program may also induce investment in energy efficiency by non-covered sectors, providing an indirect benefit to businesses.

(E) The incentives for innovation in products, materials, or processes.

Typical covered businesses may benefit from the financial incentive to develop lower-carbon technologies and manufacturing processes which could provide substantial expenditure reductions in the operations of many covered entities. Businesses may also benefit through participation in the allowance market. Firms that trade allowances for

profit, either through market participation or by reducing emissions and selling allocated allowances, may see benefits from the proposed amendments. In addition, emissions reductions achieved in sectors covered by the Program may also induce investment in energy efficiency in non-covered sectors, providing an indirect benefit to businesses.

(F) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the State's environment and quality of life, among any other benefits identified by the agency.

There are not any anticipated incremental benefits as a result of the proposed amendments. CARB expects indirect benefits could accrue as a result of the overall Program (including the current Regulation and proposed amendments). First, benefits such as reduced GHG emissions and reduced operating costs could result from investments in energy efficiency and energy conservation funded through the use of proceeds from the sale of State-owned allowances through the GGRF. Second, these reduced GHG emissions could result in benefits from avoided environmental damages. Third, there could be potential avoided health impacts related to a reduction in co-pollutants. Given that the proposed amendments will continue to ensure the GHG emissions reductions that will occur because of the Program, these amendments may also directly improve the health and welfare of California residents, worker safety, and the State's environment.

(G) Department of Finance Comments and Responses.

CARB received comments from DOF on the original SRIA on July 25, 2018. Subsequently, CARB revised the SRIA to address DOF comments as well as to make changes based on the proposed amendments. The revised SRIA and CARB's responses to DOF's comments can be found in Appendix C of the ISOR. The original SRIA submitted to DOF on June 25, 2018, and DOF's comment letter, can be found at the DOF Major Regulations website.<sup>7</sup>

DOF generally concurred with the methodology and results of the SRIA. While the results of the assessment were sufficient to meet the requirements of CCR, Title I, Section 2002 (a)(1), DOF suggested two modifications to the analysis.

The following is a summary of DOF's comments and CARB's responses.

DOF Comment #1

CARB should provide estimates of how much emissions can be reduced at different price levels for the reduction strategies, as this is crucial to gauging the risk that allowance prices will rise to various levels within the preferred alternatives. The impacts of the proposed regulations depend not only on the expected price, but on the probability that prices will rise to \$100 or \$120, and the ranges shown for the reduction strategies are \$20 to \$500. However, a \$10 price difference means a \$10 million cost

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<sup>7</sup> The document is available at [http://www.dof.ca.gov/Forecasting/Economics/Major\\_Regulations/Major\\_Regulations\\_Table/](http://www.dof.ca.gov/Forecasting/Economics/Major_Regulations/Major_Regulations_Table/).

for a one MMTCO<sub>2</sub>e reduction. Disclosing the assumptions ARB uses also helps the public provide information on the likelihood and costs of the reduction strategies.

#### CARB response to DOF Comment #1

DOF requests that CARB address the probability that compliance instrument prices could reach the values contained in the Upper 2030 Range Price Points Scenario of the original SRIA. If CARB proposed to retain the range of price ceiling values contained in the preliminary SRIA, CARB would concur with DOF's focus on providing the public with information that could explain the probability of reaching values above \$150 (\$2018), which is possible under the Upper 2030 Range Price Points Scenario of the original SRIA.

However, CARB has settled on a single set of values for the Reserve tiers and the price ceiling since submitting the original SRIA. The new range of values in the Amended Regulation that the price ceiling will take from 2021 through 2030 should alleviate most of DOF's concerns. The new price ceiling is below the single Reserve tier prices that are expected to occur under the existing Regulation through 2026. By 2030, the proposed price ceiling could be above the expected single Reserve tier price by about \$10, when compared in real 2018 dollars. For most of the period, the new price ceiling would actually produce improved cost containment when compared to the existing Regulation.

In addition, the two new post-2020 Reserve tier prices are set at levels that are always below the single Reserve tier prices that are expected to occur under the existing Regulation through 2030. This reduces the likelihood that compliance instrument prices would ever reach the price ceiling. Perhaps more importantly, the quantity of allowances in the Reserve should be enough to supply covered entities' short-term compliance needs while providing them with the time needed to identify and take action on direct emission reductions. Much of staff's response to DOF's second comment addresses this aspect.

The 2017 Scoping Plan also includes an uncertainty analysis' modelling that under base assumptions, the Scoping Plan (based on the current Regulation's single tier price) achieved the 2030 emissions target over 96 percent of the times key Scoping Plan Scenario assumptions were changed. By modifying the assumption on price responsiveness to allowance values, however, the 2017 Scoping Plan's success in meeting the 2030 emissions target dropped.<sup>8</sup> Under the proposed 5 percent real escalation, the range of potential allowance values under the price ceiling is modestly above the level under the Single Tier from 2027 to 2030. This aligns closely with the assumptions for the modeling conducted in the 2017 Scoping Plan, while providing some modest additional increase in the price ceiling to help reinforce the high certainty of achieving the 2030 target.

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<sup>8</sup> Scoping Plan Appendix E Table 59. Updated Simulated Likelihood of Reaching 2030 Emission Limit for Several Alternative Input Assumptions. [https://www.arb.ca.gov/cc/scopingplan/2030sp\\_appe\\_econ\\_final.pdf](https://www.arb.ca.gov/cc/scopingplan/2030sp_appe_econ_final.pdf)

## DOF Comment #2

The SRIA should discuss the impacts of the chosen price ceiling to disclose the tradeoffs to the public during the comment period. With the range of price ceilings shown, and the range of alternatives, ARB should have most of the data needed to prepare that discussion regarding the likelihood of prices rising to that ceiling, as well as the impacts to businesses and individuals of allowance prices at that ceiling.

## CARB response to DOF Comment #2

In responding to AB 398, staff must balance the need for cost containment with the need for market prices to rise high enough to support abatement projects sufficient to meet the 2030 emissions target. In the unlikely event cost containment is triggered, sales from the new post-2020 Reserve or price ceiling prevent emissions reductions that are only cost effective at allowance values above the new post-2020 Reserve tier and price ceiling values. Thus, the price levels at which cost containment are set strikes a balance between being high enough to allow for a sufficient volume of reductions to occur to meet the 2030 target, and being low enough to meet the AB 398 objectives of minimizing emissions leakage and minimizing adverse impacts to households, businesses, and the California economy.

Staff analysis of abatement options suggests that there are sufficient abatement opportunities below the price ceiling for covered entities to react to high prices through direct reductions. Staff also contend that establishing the two new post-2020 Reserve tier prices below the expected prices under the existing Regulation further reduces the likelihood that prices will rise to the price ceiling as they give time for the market to identify and take actions to reduce GHG emissions.

The 2017 Climate Change Scoping Plan estimates that if all measures included in the 2017 Scoping Plan perform exactly as modeled, 62 percent of emissions reductions from 2021 through 2030 will be achieved through other policies and regulations outside of the Cap-and-Trade Program.<sup>9</sup> Cost containment must not interfere with Cap-and-Trade's ability to deliver additional GHG reductions should other adopted complementary measures deliver less than the 62 percent of emissions reductions anticipated under the current Scoping Plan.

Staff reviewed evidence of abatement costs, including from supporting material for the Updated Economic Analysis of California's Climate Change Scoping Plan,<sup>10</sup> the Updated Economic Analysis of the WCI Regional Program,<sup>11</sup> and trading prices in the European Union Emissions Trading Scheme (EU ETS).<sup>12</sup> Consultation with CARB's carbon capture and sequestration Program staff suggests that a supply of emissions

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<sup>9</sup> Figure 7, page 28 [https://www.arb.ca.gov/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf)

<sup>10</sup> Updated Economic Analysis of California's Climate Change Scoping Plan: Staff Report to the Air Resources Board. March 24, 2010. [http://www.arb.ca.gov/cc/scopingplan/economicssp/updated-analysis/updated\\_sp\\_analysis.pdf](http://www.arb.ca.gov/cc/scopingplan/economicssp/updated-analysis/updated_sp_analysis.pdf)

<sup>11</sup> Updated Economic Analysis of the WCI Regional Cap-and-Trade Program. July 2010. Found at: <http://www.westernclimateinitiative.org/component/repository/Economic-ModelingTeam-Documents/>.

<sup>12</sup> From 2010 ISOR <https://www.arb.ca.gov/regact/2010/capandtrade10/capisor.pdf>

reductions can be achieved by CCS and other alternative abatement strategies at prices below 2021's proposed price ceiling of \$61.25 (in real 2018 dollars). Under the proposed 5 percent real escalation plus inflation, the range of potential allowance values below the price ceiling further into the 2020s would support a substantial supply of additional emissions reductions as necessary.

A large number of factors influence the price of allowances in the Cap-and-Trade Program. The technological and behavioral factors include the ease of switching to low-GHG methods of production, the extent to which consumers shift to low-GHG products in response to price changes, and the pace of technological progress. A number of policy factors also apply, including emissions reductions from complementary environmental policies. The proposed amendments will affect the cost of using energy derived from fossil fuels, which in turn will affect the price of most goods and services throughout the California economy. Some covered entities will make efficiency improvements that result in reduced fuel expenditures and reduced emissions. The increased price of energy will cause secondary emissions reductions by non-covered entities through increased energy efficiency, decreased purchases of energy-intensive goods and services, and increased conservation.

Since the Regulation does not specify how or where emissions reductions will occur, it is impossible to know in advance what covered or non-covered entities will do to comply, or how they will respond to the proposed amendments. Therefore, possible compliance responses, as observed through the estimated change in capital, labor, energy, and fuel expenditures, must be modeled across a wide range of carbon prices. In addition, the impacts of any future regulatory action on these amendments to the Cap-and-Trade Regulation will be discussed when appropriate in subsequent rulemakings.

**Business Report (Gov. Code, §§ 11346.5, subd. (a)(11); 11346.3, subd. (d)):**

In accordance with Government Code sections 11346.5, subdivisions (a)(11) and 11346.3, subdivision (d), the Executive Officer finds the reporting requirements of the proposed regulatory action which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

**Cost Impacts on Representative Private Persons or Businesses (Gov. Code, § 11346.5, subd. (a)(9)):**

In developing this regulatory proposal, CARB staff evaluated the potential economic impacts on representative private persons or businesses. Most benefits to individuals are an indirect result of the Program, as investments in energy efficiency and energy conservation can result in economic benefits to consumers. Individuals may experience lower household expenditures driven by greater energy efficiency and clean technology innovations and additional economic benefits from any direct return of allowance value. CARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subds. (a) and (b)):**

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would not affect small businesses. Based on the definition of "small business" in Government Code section 11342.610, the inclusion threshold for the Cap-and-Trade Regulation, and the fact that the proposed amendments do not modify the inclusion threshold or any compliance obligation requirements, no small businesses will be affected by the proposed amendments. As described in previous Cap-and-Trade Regulation rulemakings, no small businesses face any compliance obligation under the Cap-and-Trade Regulation, and the proposed regulatory action would not impose any new compliance obligations on any covered entities. Therefore, the proposed amendments would not directly affect small businesses.

Small businesses will be indirectly affected by the Cap-and-Trade Program due to the increased price of fossil fuels. Costs will vary based on the business's use of fossil fuels and its ability to reduce fossil fuels in its operations. Small businesses could experience some energy cost savings as a result of adoption of energy efficient technologies. The proposed amendments may also benefit small businesses that produce or sell low-carbon technologies and could result in the creation of some new small businesses.

**Alternatives Statement (Gov. Code, § 11346.5, subd. (a)(13)):**

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Executive Officer analyzed three alternatives to the proposed amendments and determined that all of the alternatives would be less effective in carrying out the purpose for which the action is proposed than the proposed amendments, as described in the ISOR and presented below.

Take No Action Alternative for Complete Regulation. An overall "no action" alternative means that no revisions would be made to the existing Cap-and-Trade Regulation. Under this alternative, CARB and entities covered by the Regulation would continue to operate pursuant to the requirements of the existing Regulation. If CARB were to take no action, the Regulation would not be consistent with AB 398 requirements, covered entities would not receive appropriate levels of allowance allocation, and the EIM GHG emissions would not be properly accounted for, among other impacts. For these reasons, the take no action alternative is neither practical nor beneficial to CARB and covered entities and other market participants.

Set the Price Ceiling at a Higher Level. Under this alternative, CARB would set the price ceiling well above the level of the post-2020 single tier Reserve price under the current Regulation as well as the price ceiling value of the proposed amendments. As described in the SRIA (Appendix C to the ISOR), setting the price ceiling at this level could have impacts that include the following: estimated total cost to industry in 2030 could be \$44.42 billion, \$26.16 billion more than the estimated cost under the proposed amendments (in real 2018 dollars); gross domestic private investment relative to the current Regulation and relative to the proposed amendments could decrease; and much higher compliance costs make it likely that this alternative could be less cost-effective than the Regulation with the proposed amendments. As such, this alternative was rejected because it would be less cost-effective than the proposed amendments and because it is neither practical nor beneficial to CARB and covered entities and other market participants.

Set the Price Ceiling at a Lower Level. Under this alternative, CARB would set the price ceiling well below the level of the post-2020 single tier Reserve price under the current Regulation as well as the price ceiling value of the proposed amendments. As described in the SRIA (Appendix C to the ISOR), relative to the proposed amendments, this alternative would result in decreased costs to covered entities. However, this lower price ceiling may be too low to incent adoption of abatement technologies, delaying or preventing emissions reductions from occurring. This could possibly result in additional environmental damages, which can be valued using social cost of carbon (which may not account for the full damages), and risk not achieving the GHG reductions necessary to achieve the State's 2030 reduction target. If demand for allowances rises and the price ceiling is reached, the 2030 GHG reduction target would be met only through metric ton for metric ton reductions at the price ceiling and not through reductions from capped sectors. Reliance on these reductions, along with a price ceiling that may be too low to be accepted by other jurisdictions may jeopardize existing and future linkages, while also requiring the introduction of GHG measures analyzed in Alternative 1 of the 2017 Scoping Plan. As such, this alternative was rejected for not meeting the goal of incenting GHG reductions from capped sectors, for jeopardizing linkages, and because it is neither practical nor beneficial to CARB and covered entities and other market participants.

## **ENVIRONMENTAL ANALYSIS**

CARB, as the lead agency for the Cap-and-Trade Regulation, prepared a Draft Environmental Analysis (EA) in accordance with the requirements of its regulatory program certified by the Secretary of Natural Resources. (California Code of Regulation, title 17, sections 60006-60008; California Code of Regulation, title 14, section 15251, subdivision (d).) The Draft EA provides a single coordinated programmatic environmental analysis of an illustrative, reasonably foreseeable compliance scenario that could result from implementation of the proposed amendments (referred to as the "Proposed Project" in the Draft EA) to the Cap-and-Trade Regulation.

The resource areas from the California Environmental Quality Act (CEQA) Guidelines Environmental Checklist were used as a framework for a programmatic environmental

analysis of the direct and reasonably foreseeable indirect environmental impacts resulting from implementation of the proposed amendments to the Cap-and-Trade Regulation. The Draft EA provides an analysis of both the beneficial and adverse impacts and feasible mitigation measures for the reasonably foreseeable compliance responses associated with the proposed amendments.

The Draft EA concluded, under a conservative approach, that implementation of these proposed amendments could result in the following beneficial and adverse impacts: beneficial impacts to energy demand and greenhouse gases; less-than-significant impacts to aesthetics, agricultural and forest resources, population, housing, and employment, public services, recreation, and utilities and service systems; and potentially significant and unavoidable adverse impacts to air quality, biological resources, cultural resources, geology, soils, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, and transportation and traffic. The potentially significant and unavoidable adverse impacts are primarily related to short-term, construction-related activities. This explains why some resource areas are identified above as having both less-than-significant impacts and potentially significant impacts. Please refer to the Draft EA for further details.

The Draft EA is included as Appendix B to the ISOR and can be obtained from ARB's website at: <http://www.arb.ca.gov/regact/2018/capandtrade18/capandtrade18.htm>

### **SPECIAL ACCOMMODATION REQUEST**

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la

audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

### **AGENCY CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative Jason Gray, Branch Chief, Climate Change Program Evaluation Branch, at (916) 324-3507 or (designated back-up contact) Mark Sippola, Manager, Program Development Section, at (916) 323-1095.

### **AVAILABILITY OF DOCUMENTS**

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Staff Report: Initial Statement of Reasons for Rulemaking—Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on September 4, 2018.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

### **HEARING PROCEDURES**

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may vote on a resolution directing the Executive Officer to: make any proposed modified regulatory language that is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action, and any additional supporting documents and information, available to the public for a period of at least 15 days; consider written comments submitted during this period; and make any further modifications as may be appropriate in light of the comments received available for further public comment. The Board may also direct the Executive Officer to: evaluate all comments received during the public comment periods, including comments regarding the Draft Environmental Analysis, and prepare written responses

to those comments; and present to the Board, at a subsequently scheduled public hearing, the final proposed regulatory language, staff's written responses to comments on the Draft Environmental Analysis, along with the Final Environmental Analysis for action.

### **FINAL STATEMENT OF REASONS AVAILABILITY**

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on CARB's website listed below.

### **INTERNET ACCESS**

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at  
<http://www.arb.ca.gov/regact/2018/capandtrade18/capandtrade18.htm>

CALIFORNIA AIR RESOURCES BOARD



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Richard W. Corey  
Executive Officer

Date: August 24, 2018

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at [www.arb.ca.gov](http://www.arb.ca.gov).*