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California Air Resources Board (CARB)  
1001 I Street, Sacramento, CA 95812

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**Re: Comments on 15-day notice of linkage amendments; procedures for ensuring substantial changes to a linked jurisdiction's program meet CARB's approval**

Dear Mr. Cliff and Ms. Sahota,

Thank you once again for the opportunity to comment on proposed changes to the cap-and-trade regulation. We appreciate the hard work of CARB staff and the many opportunities for comment that CARB has made available during the development of the cap-and-trade program regulations.

These comments focus on establishing a process for ensuring that any changes made to a linked cap-and-trade program meet CARB quality and stringency standards. Linked cap-and-trade programs merge multiple regulatory regimes into an interconnected program. Since credits are fungible across fully linked jurisdictions, any changes made to one linked program affect the stringency of all linked programs. Over time, linked jurisdictions may wish to make changes to their programs, such as adopting new offsets protocols, modifying existing protocols, changing procedures for overseeing their offsets program, linking with other carbon trading programs in full or in part, and modifying other key facets of their cap-and-trade programs. We believe it is important to establish clear procedures prior to linkage for ensuring that any such changes by a linked jurisdiction are agreed by CARB prior to being made. Without explicitly establishing such procedures, CARB may be in the position of assessing whether an unanticipated change results in weakened equivalency of credits to the California program, and if so, how to administer a remedy currently limited to unilaterally suspending or terminating the linkage relationship.

As an example of why such procedures are needed, of particular concern are changes a linked jurisdiction might make to its carbon offsets program. The Kyoto Protocol's carbon offsets program, called the Clean Development Mechanism (CDM), has been widely criticized for crediting non-additional activities (activities that were already going forward regardless of the offsets program). CARB would protect the stringency and effectiveness of its cap-and-trade program, and the stability of the program, if it were to assess the level of additionality of protocols used by all linked jurisdictions prior to their adoption or revision, and periodically for existing protocols, based on the same criteria it uses to assess its own protocols. An additionality assessment would be used to

ensure and demonstrate that the offsets program as a whole is unlikely to generate substantially more credits than the reductions/sequestration enabled by the program.

California and Quebec are both participating in the Western Climate Initiative (WCI), which published procedures for approving offsets protocols (see WCI *Final Offset Protocol Review and Recommendation Process*). However, these procedures do not explicitly require a participating jurisdiction to assure its protocols are accepted by all linked WCI partners prior to adoption or revision. Further, the criteria defined by the WCI for assessing additionality is also relatively vague (see WCI *Offset System Essential Elements Final Recommendations Paper* and the WCI *Detailed Design*). These documents define additionality operationally, as an agreed performance benchmark, which does not assure that reductions are “in addition to.... any other greenhouse gas emission reduction that otherwise would occur” as required under AB 32. WCI procedures and criteria do not at this time assure that the offsets programs of participating jurisdictions will meet California standards, nor that California may reject protocols and protocol revisions that fail to meet its standards. While we expect that the California and Quebec regulatory agencies will work collaboratively to implement linkage, explicit safeguards are needed to ensure that the linking framework protects environmental integrity and the stability of the program.

Whether in the form of Board-issued guidance or in the regulation itself, we urge CARB to establish procedures prior to linking which include the following terms:

- (a) CARB shall only approve linkage with an external greenhouse gas emissions trading scheme (GHG ETS) if it finds that the scheme includes the following provisions:
  - (1) procedures for consultation with ARB prior to any amendments of the Linked External GHG ETS that may significantly change compliance instruments offered by the Linked External GHG ETS, including, but not limited to: the adoption of new offset protocols; expansion of the geographic scope from which offset projects are accepted; expansion of project types accepted pursuant to a protocol; linking to a third-party jurisdiction, other than California, which introduces compliance instruments issued by such third-party jurisdiction into the compliance instruments available for use in the Linked External GHG ETS; changes to the types of entities with compliance obligations; or changes to any reserve price;
  - (2) procedures for resolving any negative findings made by ARB;
  - (3) provisions such that if any resolution of negative findings regarding subsequent amendments to a Linked External GHG ETS should fail, and linkage is rescinded, any compliance instruments from California that were: (i) available to meet compliance obligations in such Linked External GHG ETS, and (ii) were either surrendered or held prior to the date linkage was rescinded, will continue to be valid compliance instruments for meeting compliance obligations in such Linked External GHG ETS.
- (b) Upon consultation described in Section (a), ARB shall, within XX days, evaluate the proposed amendments to the Linked External GHG ETS. ARB
  - (1) shall assess whether following the enactment of the proposed amendments all greenhouse gas emissions reduction compliance instruments accepted by the Linked External GHG ETS, including any offset credits, will meet the requirements of Division 25.5, Part 4, Section 38562(d)(1)-(3) of the Health and Safety Code;

- (2) shall assess whether following the enactment of the proposed amendments the Linked External GHG ETS has adequate reporting, verification and enforcement procedures to ensure compliance with those requirements;
- (3) shall assess whether following the enactment of the proposed amendments the Linked External GHG ETS remains as stringent as California's program;
- (4) shall take into account public comments received on the amendments to the Linked External GHG ETS;
- (5) may, in its discretion, consult any relevant ARB guidance documents, including but not limited to guidance documents describing procedures for evaluating new offset protocols.

(c) If ARB finds that the proposed amendments would, in its judgment, not satisfy the findings described in (b), ARB must begin consultation with the relevant Linked External GHG ETS in order to attempt to resolve such negative findings.

(d) After completion of the evaluation and resolution of any negative findings described above and public notice and opportunity for public comment, the Board may approve proposed amendments to the Linked External GHG ETS. The Board's decision to approve any proposed amendment shall be accompanied by a specific finding that all compliance instruments accepted by the Linked External GHG ETS, including any offset credits, will meet the requirements of Division 25.5, Part 4, Section 38562(d)(1)-(3) of the Health and Safety Code.

(e) If the Board fails to approve any enacted amendments made to a Linked External GHG ETS pursuant to Section (c), then approval of the linkage to such Linked External GHG ETS will automatically be rescinded. If a Linked External GHG ETS has its linkage rescinded pursuant to this paragraph, only compliance instruments from such Linked External GHG ETS that were: (i) available to meet compliance obligations in California, and (ii) were either surrendered or held prior to the date linkage was rescinded, will continue to be valid compliance instruments for meeting compliance obligations in California.

Most sincerely,

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