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Ryerson, Master and Associates, Inc.

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Via Electronic Submittal

Kevin M. Kennedy, Ph.D.
Assistant Executive Officer – Climate Change
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Dear Dr. Kennedy:

Ryerson, Master, and Associates, Inc. (RMA) appreciates the opportunity to submit comments regarding the Air Resources Board's (ARB) Proposed Revision to the Regulation for Mandatory Reporting on Greenhouse Gas Emissions (MRR). RMA has been an active verification body beginning with informal verification for calendar year 2008, and has considerable experience with ARB's verification requirements. Therefore, our comments focus on possible changes to verification requirements and the requirements of verification body accreditation.

- **COI/NOVS submittal and approval timing:** Please consider adjusting language in the MRR, sections 95131 and 95133 to allow the Verification Body to perform certain limited verification services upon approval of the Conflict of Interest (COI) documentation, rather than 10 business days after submittal of the Notice of Verification Services (NOVS). In our experience, reporters are reluctant to finalize the site visit date until the verifiers have provided some information about what they would like to see and which facility staff members they would like to meet with on the site visit. This information is difficult to provide before the verifier has reviewed the inventory and essentially begun verification services. Currently, the site visit date must be specified in the NOVS, at least 10 business days before the start of verification services.

  In CY 2009, RMA initially attempted to streamline COI/NOVS submittal by submitting COI and NOVS concurrently. In almost every case RMA verifiers had to resubmit the NOVS, due to the uncertainties inherent in the original scheduling of the site visit. First, the site visit is very difficult to schedule 30 or more business days in advance. Also, because ARB turned around most COI reviews in far fewer than the 45 calendar days allowed under the current regulation, it was often prudent to reschedule the site visit for sooner than originally planned in order to expedite the verification. Understandably, ARB asked RMA to stop submitting NOVS forms before the site visit dates were officially scheduled in order to minimize the review of resubmittals.

  Allowing the verifier to conduct some limited verification activities before scheduling the site visit (and thus submitting NOVS) would enable the verifier to schedule site visits with more certainty and accuracy, reducing the paperwork of resubmittals as well as improving our ability to schedule multiple site visits on the same trip. ARB would still receive 10 business days notice before the site visit via the NOVS submittal.

- **Bulk COI submittal for low-conflict verifications:** Please consider a bulk conflict of interest submittal form for review of multiple low-conflict verifications at once. Verification bodies could submit such a form early in the verification season for streamlined review and approval. The form would disclose all required conflict of interest information for the verification body as well as for each individual staff member who may work on the verifications. Specific staff roles such as lead verifier and independent reviewer could be

identified and approved subsequently through other processes, such as the team designations in the online reporting tool. This would effectively eliminate significant redundancy in the existing COI process.

- **Six consecutive years of verification**: Per section 95130(a)(2) of the MRR, please consider clarifying the language on how to account for gaps in consecutive years in which verification services were provided. For example, if a verifier provided verification services to an entity under the California Climate Action Registry program for four consecutive years, then the entity did not report to the California Climate Action Registry in the fifth year (and no verification services were provided), and then the verification body provided verification services to the same entity under the ARB reporting program in the sixth year, would the verification body be allowed to verify the entity's ARB report in the seventh year?

- **Requirements to address immaterial misstatements**: During the webinar for verifiers on December 2, ARB conveyed the expectation that under the MRR, verifiers must require reporters to address even immaterial differences between reported and verified emissions before providing a positive verification opinion. Requiring a reporter to "correct" an emissions estimate to match the verifier's estimate implies that the verifier's estimate is "right" and the reporter's estimate is "wrong." This is inconsistent with the stated job of the verifier: to provide reasonable assurance whether the reporter's emissions data report is free from errors of totaling greater than 5% and is in conformance with the Regulation.

  In our experience it is possible, even common, to find room for interpretation in the details of the methodologies and inputs used while still being able to provide reasonable assurance that materiality and conformance requirements were met. In many cases, to match a reporter's estimate exactly, verifiers would essentially need to duplicate the reporter's work line by line. This is clearly a less robust and objective way to conduct a verification that would either take the place of conducting an independent estimate, thus compromising the verifier's objectivity, or would need to be performed in addition to independent review, thus duplicating the verifier's level of effort. RMA also believes that requiring reporters to make revisions to address immaterial differences between reported and verified emissions would significantly increase the demand for support from ARB staff, who would be asked to make judgment calls on the minutiae of calculation methodologies even when no significant materiality or conformance matters were at stake.

- **ANSI accreditation for verification bodies**: ARB's intent with this revised regulation is to focus on harmonization with the EPA's Mandatory Reporting Ruling, and increasing rigor and reliability to create to robust cap-and-trade system. ARB has overlooked an opportunity for increased harmonization with other international GHG verification standards and in increasing the credibility of verified data reports by requiring ANSI accreditation for verification bodies. This step will ensure that all verifiers and verification bodies are acting within recognized best practice standards, while allowing ARB staff who currently may spend a considerable amount of time administering requirements for verification bodies to focus on assisting reporters and verifiers in understanding the Regulation, the reporting tool, and reporting and verification processes. RMA strongly supports the comments submitted by ANSI (enclosed) and also those submitted by the Association of Accredited Verification Bodies and available at http://www.arb.ca.gov/lists/ghg2010/13-arb_response_letter.pdf.

  RMA recommends the ARB consider adopting language requiring ANSI accreditation for all verification bodies. The ANSI standards-based approach to accreditation would result in a more robust verification process with the potential for global harmonization, and also save money for reporters in the long run because verification bodies would not have to subscribe to multiple accreditation programs.

Best Regards,

J. Ivor John, PhD
General Manager

Enclosure

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ANSI
American National Standards Institute

December 9, 2010

The Honorable Mary Nichols
Chairman, California Air Resources Board
California Environmental Protection Agency
California Air Resources Board
1001 I Street, First Floor
Sacramento, CA 95814

RE: Cap-and-trade Proposed Regulations

Dear Chairman Nichols and Members of the Board:

The American National Standards Institute (ANSI) would like to thank California Air Resource Board (CARB) for this opportunity to comment on the "Proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation, including Compliance Offset Protocols." ANSI is a 501(c)3 not-for-profit organization, and has served as coordinator of the public and private sector voluntary consensus standards and conformity assessment systems in the United States since 1918.

ISO 14065[1] is the international standard against which accreditation bodies such as ANSI assess GHG verification bodies (VBs). The principles of the standard include impartiality, competence and confidentiality. Verification bodies accredited to ISO 14065 must adhere to the verification principles, defined in ISO 14064-3[2], of independence, ethical conduct, fair presentation, and due professional care. The purpose of the ISO 14064 and ISO 14065 standards are to:

- Develop flexible, regime-neutral tools for use in voluntary or regulatory GHG schemes;
- Promote and harmonize best practice;
- Support the environmental integrity of GHG assertions;
- Assist organizations to manage GHG-related opportunities and risks; and
- Support the development of GHG programs and markets

Consistency is vital in promoting best practice and providing support of developing GHG programs and markets. Consistency is also critical in delivering accurate assessment results. ANSI and its peers around the world work to ensure that the requirements of ISO standards such as ISO 14065 are applied consistently and that the accreditation process

[1] ISO 14065:2007, *Greenhouse gases – Requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition.*
[2] ISO 14064-3:2006, *Greenhouse gases – Specification with guidance for the validation and verification of greenhouse gas assertions*

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meets the requirements of ISO 17011[3], the international standard specifying requirements for accreditation bodies.

The proposed offset regulation references Section 95132 of CARB's Mandatory Reporting Rule, which establishes accreditation requirements for verification bodies, lead verifiers and verifiers. These requirements include providing CARB with the qualifications of verification body staff, description of organizational structure, procedures for management of conflict of interest (COI), and evidence that the applicant has completed CARB training and received a passing scope on an examination administered by a subcontracted body (e.g. Future Perfect - a division of General Physics Corporation). In addition, to apply as a lead verifier, an applicant can provide evidence of one of three options including 1) acting as project manager or in a lead capacity in GHG reporting programs such as the California Climate Action registry (CCAR), the "United Kingdom Accreditation System", or an organization accredited "by a recognized agency in ISO 14065 or ISO 19011, having performed at least three verifications by December 31, 2007". Other options to satisfy the experience requirement include evidence that he/she has completed three verifications under the supervision of an ARB accredited lead verifier or that the applicant has worked as a project manager or "lead person" for not less than four years in developing GHG or air emission inventories or as a "lead environmental data auditor" in the private sector.

This wide range of requirements will not provide the State of California with a consistent basis for granting accreditation and may expose it to liability not only as an accreditation body but also as a personnel certification body. As an accreditation system already exists in the U.S. not funded by tax payers in the State of California, it seems a wasteful endeavor for CARB to continue to invest the budget and resources to maintain such a system.

Certification provides the mechanism for an individual to demonstrate that he or she has attained a level of competence in a particular area. Accreditation is a mechanism for a body to demonstrate that its quality assurance system and its verification process are able to generate valid results. As part of the accreditation process, the accreditation body assesses a verification body's internal systems, processes, quality controls, impartiality and independence to successfully complete emissions verifications. The accreditation body assessors achieve this by first remotely reviewing the verification body's documentation, and then conducting an onsite visit to the verification body's offices. The assessors also observe the verification body conducting a facility visit as part of its verification activities. In order to maintain accredited status, verification bodies must undergo annual surveillance and periodic reaccreditation.

Since its launch in 2008, ANSI's ISO 14065 accreditation program has grown steadily and is recognized by a number of voluntary and regulatory programs. To date, ANSI has accredited 21 validation/verification bodies and has also become a strong partner in the efforts of other accreditation bodies that are operating or establishing similar programs

[3] ISO/IEC 17011:2004 – *Conformity assessment – General requirements for accreditation bodies accrediting conformity assessment bodies.*

across the globe. Currently, the Standards Council of Canada (SCC) as well as Entidad Mexicana de Acreditación (EMA) are developing ISO 14065 accreditation programs which benchmark the ANSI program. They join those countries either already operating or interested in developing such a program, including Costa Rica, Brazil, Argentina, Denmark, Sweden, Finland, United Kingdom, France, Austria, Slovenia, Thailand, Korea, China, Taiwan, Philippines, India and more.

This growing list of accreditation bodies (all ANSI peers and members of the International Accreditation Forum, or IAF) taking the same approach to oversight of emerging GHG reporting and offset programs underscores the importance of the use of international standards. It also represents the growing demands of programs and stakeholders for consistency, accountability and transparency in GHG reporting.

At the time when CARB was publishing its mandatory GHG reporting rule, ISO 14065 had not yet been published, and therefore it was not possible for CARB to incorporate ANSI's program into its regulations. Instead, CARB developed its own process for accrediting verification bodies to provide services for its program. Now that ANSI's accreditation program is well established, this amendment to CARB's regulation is the perfect opportunity to adopt the ISO 14065 accreditation program and maintain consistency with regulations adopted by the other Western Climate Initiative (WCI) jurisdictions.

ANSI is aware of the important precedent that CARB will set in establishment of the cap-and-trade program and accreditation program for verification bodies. Action from California will prompt other jurisdictions to follow its lead. In its own 2007 recommendations, the CARB Market Advisory Committee stated,

- "introducing offsets need not weaken the ability of the cap-and-trade program to yield emissions reductions."
- "Experience with prior cap-and-trade systems also demonstrates the value of establishing and clearly communicating the transactional, reporting, and verification infrastructure of the program. It also highlights the value of good data."
- "The critical requirement is that very tough standards must be applied to ensure that offset credits are issued only for emissions reductions that are real, additional, verifiable, permanent, and enforceable."

These points are truly critical if there are to be cap-and-trade programs capable of delivering needed reductions. Creating multiple accreditation programs with multiple verification processes will confuse rather than harmonize. If California is to link with other programs, there must be consistency in the verification process. Accreditation of verification bodies against ISO 14065 can help to achieve this much needed environmental integrity and will assure equal reliability of results.

ISO 14064 and ISO 14065 are not in themselves a GHG program, instead they are tools for use by organizations, project proponents or GHG programs. Currently, several

voluntary programs such as The Climate Registry, Climate Action Reserve, Pacific Carbon Trust, American Carbon Registry, Voluntary Carbon Standard Association and the Chicago Climate Exchange recognize ISO 14065 accredited bodies. As ISO 14065 and ISO 14064-3 are program neutral, ANSI recognizes the important role of GHG programs in specifying additional criteria and actively works with programs to ensure that additional requirements are met. Similarly, ISO 14065 accreditation by ANSI is required to meet regulatory requirements for accreditation under the Regional Greenhouse Gas Initiative (RGGI) State CO_2 budget trading programs. Specifically, the ANSI process is utilized by RGGI participating states to "provide both a robust and streamlined state accreditation process."[4] The Massachusetts Department of Environmental Protection's GHG reporting program also requires third-party verification by verification bodies accredited to ISO 14065.

Other regional programs, including WCI, have taken a similar approach. The WCI, in its Offsets System Essential Elements Final Recommendations, states "accreditation requirements should be harmonized across the WCI region." This harmonization is already well underway with the GHG reporting regulations for New Mexico, British Columbia, Ontario, and Québec, all of which require ISO 14065 accreditation for verification bodies operating within their jurisdictions. Alberta has also indicated that in the future it will move towards accreditation of verification bodies. They have observed to date that the oversight of verification bodies must be more systematic to avoid erroneous verification claims and to prevent regulatory reporting errors from escaping.[5]

The opportunity exists for the United States to look at the experience in the European Union regarding the establishment of a cap-and-trade system. There are some important lessons learned that ANSI would like to emphasize here. Variation in approach to quality control and lack of harmonization in the EU ETS early phases lead to differences across jurisdictions in sampling sizes, time spent, methodologies used, competencies required, tools used, etc. It is critical in GHG verification to not create unnecessary divergences in approach. Jurisdictions may make different choices, but in phase III of the EU ETS there is now increased focus on getting the right balance and being consistent. This is evidenced by European accreditors such as the United Kingdom Accreditation Service (UKAS) transitioning all previously accredited GHG verification bodies to ISO 14065.

Currently, CARB defines an accredited body as a company having two individuals trained and certified by CARB. The vulnerability of this approach is that individuals and their employers have a vested interest in overstating their technical abilities to maximize their commercial opportunity to operate as third-party verification bodies. ISO 14065 recognizes this vulnerability and addresses it through a process of establishing minimum requirements for verification bodies to competently and impartially conduct audits. Commitment to impartiality is one of the key principles of ISO 14065 and a major focus of the assessment process. This includes not only case-specific evaluation of COI but

[4] RGGI Status Update: RGGI Offset Application & Submittal Materials and Verifier Accreditation Process, May 2009.
[5] Government of Alberta, Presentation "Climate Change Strategy and Regulatory Program Update", November 23, 2009

also analyzing potential conflicts (arising from organizational relationships, finances and sources of income which may compromise impartiality) as well as ensuring that personnel declare potential conflicts. If there is a lack of objective evidence to demonstrate to ANSI that COI is reviewed as stated in the VB's procedures, a nonconformance is cited and the VB is required to implement corrective action. In fact, corrective action on oversight and evaluation of impartiality has been required in more than half of the assessments conducted to-date. This statistic underscores the importance of having a consistent standard by which to evaluate a VB's process for evaluating and managing COI and impartiality.

And the requirements of ANSI and other accreditation bodies do not need to be applied in isolation. As seen with other GHG programs, additional criteria can be layered into the existing requirements. ANSI recognizes the important role of regulatory bodies. The ANSI process would not prevent CARB from requiring additional requirements such as training and certification to be met by ISO 14065 accredited verification bodies operating in this jurisdiction. In fact, ANSI operates a number of accreditation programs where additional performance criteria beyond the ISO standard are specified by regulatory or federal agencies. Examples include the U.S. EPA *WaterSense* and *Energy Star* programs' accreditation requirements for certification bodies.

As more GHG programs rely on the ISO 14065 accreditation process, the process is becoming even more cost-effective for verification bodies as they consolidate the cost of accreditation across multiple schemes. But proliferation of additional accreditation requirements and programs can only add to the cost of providing accredited verification. Having a designated accreditation body capable of serving all markets will promote consistency and reduce the overall cost of accreditation. A rough empirical calculation estimates accreditation fees to be less than five percent of annual verification revenue for the smallest accredited VVBs. ANSI accredited bodies often commend their return on this investment, including reduced liability attributed to a credible third-party accredited system of conformity assessment.

California and the members of the WCI are encouraged to look at existing systems in place for regional recognition of verification bodies such as the European Accreditation (EA) Document for Recognition of Verifiers under the EU ETS Directive. The objective of this document is to promote a harmonized, consistent approach between member states to the criteria for and the assessment of verification bodies verifying the EU ETS annual emission report and tonne-kilometre reports.[6]

The WCI's framework for verification (WCI.8) requires that verification bodies are accredited to ISO 14065, but also includes a provision to allow accreditation by CARB as a substitute to ISO 14065 accreditation prior to January 1, 2013. ANSI strongly urges CARB to amend its rule to be consistent with the WCI framework and regulations adopted by other WCI jurisdictions. Several verification bodies have achieved initial accreditation to ISO 14065 within six months of applying to ANSI's program, so this

[6] European co-operation for Accreditation, EA-6/03:2010 Mandatory EA Document for Recognition of Verifiers under the EU ETS Directive

provision would allow ample time for CARB-accredited verification bodies to become accredited to ISO 14065.

To summarize and in conclusion, ANSI recommends that CARB should recognize ISO 14065 accredited verification bodies as having suitable processes for ensuring the competence of those performing verifications in the state of California. The value of offsets under California's program will be heavily scrutinized in the years to come as will its effectiveness at achieving GHG reductions. ANSI offers its resources, expertise and experience in offering to help build an accreditation program that will reach higher national and international levels of acceptance.

We welcome further discussion and collaboration on ensuring that the accreditation of third party verification bodies meets the needs of this tremendous effort put forth by the State of California to address climate change.

Respectfully,

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