Handling the Invalidation of Offset Credits in California's Cap-and-Trade Regulations: A Proposed Approach that Ensures Environmental Integrity and Market Functionality

The organizations participating in this statement collectively represent a substantial segment of the participants in the cap-and-trade program being established by the California Air Resources Board ("ARB") under AB 32 — including compliance entities, market intermediaries, and offset project developers.[1] We share ARB's goal of ensuring that the final rules maximize both cost-effectiveness and environmental integrity.

However, we have concerns about a particular element of the current version of the regulations: requiring the users or holders of offset credits issued by ARB to replace any credits that ARB later determines to be invalid. As we have explained in various settings, this "buyer liability" approach is incompatible with a workable market for offset credits over the life of the program. It will undermine market confidence, raise transaction costs, and limit liquidity.

The undersigned organizations have worked collectively on an alternative approach. We believe this is an administratively feasible alternative that will provide equivalent or better assurances of environmental integrity without undermining the workability of the offsets market and the efficacy of its oversight and enforcement mechanisms. We respectfully request that ARB incorporate the alternative approach outlined below in the modified regulatory language that ARB will make available for a fifteen day public comment period, as directed by the Board in Resolution 10-42, adopted on December 16, 2010. In that Resolution, "the Board direct[ed] the Executive Officer to review the requirements of the compliance offset program, . . . and, if necessary, to incorporate in the 15-day changes any revisions to the regulation necessary to ensure consistency throughout the offset program." Resolution 10-42 at 11.[2] We understand you may be considering potential modifications to the current buyer liability approach, possibly including approaches involving use of a buffer account.

Below we (a) summarize the challenges created by the "buyer liability" approach, (b) outline an alternative approach, the central feature of which is a "Compliance Buffer Account" ("CBA"), and (c) explain why the CBA approach, unlike the buyer liability approach, will support a highly functioning market while ensuring environmental integrity with a minimum of administrative burden.

Importantly, the Compliance Buffer Account proposal set forth below provides that the *residual risk of offset invalidity rests with the market* — not with ARB and certainly not with the environment. Rather than assign this risk to the ultimate buyer at the back-end of an often

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[1] The members of each signatory organization are listed in Appendix B.

[2] Resolution 10-42 at 12 also directs "the Executive Officer to continue working with stakeholders and regulated entities to make such modifications as may be appropriate to the proposed enforcement provisions of section 96014." The alternative approach described herein also includes proposals to strengthen the enforcement provisions of the cap-and-trade program and improve the efficiency of ARB's enforcement.

complex development and financing chain, the CBA proposal provides an efficient, effective, and sufficiently flexible mechanism for managing the residual risk at the front-end funded by a "holdback" on the issuance of offset credits. Once in place, the CBA will maintain system balance by immediately supplying offsets to make the program whole in the event that previously issued offset credits are found to be based on flawed documentation. In so doing, the CBA will preserve the environmental integrity of the cap as well as the compliance integrity of the offset mechanism. The residual risk is borne by the system as a whole, including buyers, and can be effectively priced into the credits from the outset.

A. The Current Buyer Liability Approach is Incompatible with an Efficient and Effective Trading System.

We have serious concerns that, absent a change in the liability structure, a robust offset system will not take shape. Imposing liability on the ultimate buyer undermines confidence in the market regarding the permanence and value of a credit. A buyer liability structure is highly inefficient because it imposes liability on a party who has little control over and knowledge of the relevant risks. The market result thus will be driven toward inefficient, illiquid bilateral transactions with limited price transparency and increased transaction and risk management costs for the participants. For the reasons outlined below, such an approach simply will not work.

1. The Buyer Liability Approach Raises Transaction Costs.

- Under the current design, prior to each purchase, prudent buyers would want to conduct due diligence of the original verification report and the terms and conditions of previous contracts and then determine the risk of potential future ARB invalidation. If an offer was made to ten potential buyers, each of them would need to engage in a separate due diligence process, incurring concomitant costs, prior to being able to bid. Thus, this process would increase the cost of offsets and discourage their development.

- Given the potential liability that may ensue years after credits are issued, verifiers would need to secure professional liability insurance and/or set aside cash reserves far in excess of the prudently derived coverage they currently carry to insure against the event that any credits that have been reviewed by the verifier are subsequently invalidated. This would lead to increased verification costs and a commensurate reduction in investment.

- Buyers would need to factor in a cost for the risk associated with backstopping compliance obligations in the event of invalidation. That risk would be very difficult to quantify — so much so that the risk committees of many potential buyers will not approve participation in the offsets market. This will raise the cost of compliance with California's program significantly. This is especially the case where, as here, most analysts project that offset and allowance costs will rise substantially over the three compliance periods.

2. The Buyer Liability Approach Creates a Cascading Liability Effect.

- In an efficient market, credits will change hands many times, each time with a different buyer and seller. While demanding performance from the initial project developer may be practical for the first buyer, it becomes impractical for the ultimate buyer to demand performance from the initial project developer when the credit has been traded numerous times. The multiple conveyance contracts and the passage of time that are implicit in such a scenario could make it very costly or even impossible for a buyer to gain resolution in the event that the credits it holds are invalidated by ARB. As a result, a secondary market for offsets likely will not develop.

- Higher transaction costs brought on by the cascading liability effect associated with the risk of invalidation would discourage the trading of offsets. It would drive the market towards inefficient, illiquid bilateral transactions with no price transparency. Every single transaction would entail a *de novo* negotiation of the parties' allocation of the risk of invalidation.

The result of the above is that many entities that otherwise would be market participants will opt not to participate in California's cap-and-trade program, putting the offset market and the cap and trade program itself at risk of failure to achieve the targets mandated by AB 32. For all of the above reasons, we urge ARB to consider an alternative approach, outlined below, that can ensure the environmental integrity of the offsets program far more efficiently and effectively.

B. Outline of Compliance Buffer Account as a Means for Handling the Invalidation of Offset Credits in California's Cap and Trade Program.

A summary of our proposal to address materially flawed documentation associated with already issued offset credits is set forth below in outline format. Our proposal relies upon a CBA that is funded by a holdback on the issuance of offset credits. While the CBA approach is modeled on the Forest Buffer Account already in the Cap-and-Trade Regulations, the proposed CBA is intended to be entirely independent of the Forest Buffer Account. The practical management of the two accounts will be very similar, but they protect against different risks and therefore should be funded and maintained separately.

There are three basic elements of the CBA approach outlined below: (1) due process for invalidation determinations (the need for which is the same under a buyer liability approach), (2) accessing the CBA in the event credits are invalidated, and (3) funding and managing the CBA. In effect, the CBA approach described here is a market-funded self-insurance mechanism that ensures the environmental integrity of the offset program.

1. Invalidation Determinations — Adequate & Appropriate Process.

ARB's invalidation of any issued offset credit — whether in a holding account or already used for compliance purposes — shall be based on a determination that the documentation provided by an Offset Project Operator, Offset Project Designee, Verifier, or Offset Project Registry is materially *not* "true, accurate, or complete." A determination that documentation is

materially not "true, accurate or complete" shall be based on protocols, information, methods, processes and regulations applicable and in place at the time the documentation was prepared. Invalidation shall not be based on evolving standards, processes, science, opinion, or on regulatory or legislative changes that take place after the preparation of the original documentation, including but not limited to any modification of offset protocols.[3]

a. When ARB <u>makes a determination</u> to invalidate an offset credit, it must follow a process that ensures due process, including:

(1) The determination shall be subject to a seven year statute of limitations based on the date of credit issuance for the credits at issue.

(2) The determination shall be in writing. The written determination shall clearly state the reason(s) for the determination, and shall identify all those associated with the invalidated credits (*e.g.*, the Offset Project Operator, the Authorized Project Designee, the Verifier(s)).

(3) If possible, ARB shall identify in the determination the entity(ies) directly responsible for the invalidation due to the generation of offset credit documentation that is materially not true, accurate, or complete – *i.e.*, the responsible entity(ies).

(4) ARB shall issue a Notice of Invalidity Determination to all those associated with the invalidated credits, informing them of the determination, providing them with a copy of ARB's written determination, and advising them of their appeal rights.

(5) The determination shall be subject to an administrative appeal to ARB's Administrative Hearing Office.

- A party appealing an invalidation determination must replace the credits pending the outcome of the appeal. In the event that it prevails on appeal, credits will be returned to it from the CBA.

[3] Note that a scenario involving a forest project reversal would be addressed through the existing rules in the Forest Offset Protocol. Those reversal determinations are independent of those discussed here, just as the CBA would be independent of the Forest Buffer Account.

2. Remedy in the Event of an Invalidation Determination — Retirement of Credits from the CBA and Enforcement Against Responsible Entities.

a. Immediate Retirement of Credits from the CBA.

(1) ARB shall immediately retire from the CBA a number of offset credits equal to the number that were subject to the invalidation determination.

b. Replenishing the CBA after Credits have been Retired to Replace Invalidated Credits — Enforcement Against Responsible Entities.

(1) If in its written determination ARB identifies the entity(ies) responsible for the invalidation due to the generation of offset credit documentation that is materially not true, accurate, or complete, and determines that the invalidation was the result of gross negligence or willful intent, then ARB, when it issues the Notice of Invalidity Determination to any entity identified as a responsible entity, also shall issue a demand to that entity that it replenish the offset credits retired from the CBA within sixty (60) days.

(2) ARB may consider the record of invalid documentation when assessing market participants' applications to register with ARB and participate in the market.

3. Funding and Managing the CBA.

a. Funding the CBA.

(1) The CBA shall be funded by requiring a 1.5% holdback on the issuance of all offset credits from offset projects.[4]

b. Managing the CBA.

(1) ARB shall manage the CBA.

c. Adjusting the Holdback to Ensure Adequate Funding of the CBA.

(1) ARB shall review the CBA at the end of each compliance period and may, on a showing of good cause, change the

[4] See Section C.3 below for more detail on the 1.5% holdback quantity.

amount of the holdback for new projects or projects entering a new crediting period in order to ensure that the CBA is adequately funded.

(2) If the CBA is running low prior to a regular review cycle, ARB can explore options and undertake actions to increase it.

(3) If the compliance account grows overly large, ARB shall reduce the holdback percentage for the next compliance period. The extra credits shall remain in the CBA to further enhance the environmental integrity of the program.

C. Discussion of the Compliance Buffer Account as a Means for Handling the Invalidation of Offset Credits in California's Cap-and-Trade Program.

For ease of use, the discussion set forth below is organized in the same format as the outline summary above.

1. Invalidation Determinations — Adequate & Appropriate Process.

The proposal clarifies the basis on which ARB may invalidate an issued offset credit, specifying that it must be based on a determination that the documentation provided by an Offset Project Operator, Offset Project Designee, Verifier, or Offset Project Registry is materially *not* "true, accurate, or complete." Section 95985(b)(2) of the Cap-and-Trade Regulations presently provides that an offset credit may be invalidated when "ARB has determined that errors by verifiers, verification bodies, Offset Project Operators, Authorized Project Designee, or others involved in producing the documentation used to support the issuance of offset credits are sufficient to warrant a reversal."[5] Our proposal clarifies that language by rooting it in the attestation that all Offset Project Operators and Designees, Verifiers and Offset Project Registries are required to make stating that the documentation supporting offset credits is "true, accurate, and complete." *See, e.g.*, Sections 95975(b)(1), 95976(d)(5) and 95981(d)(1)(F) (Project Operators/ Designees), 95977(e)(2)(C)(xviii)(d)(vi) (Verifiers), and 95986(g)(2),(3) and (6) (Registries).

The proposal also clarifies that ARB's invalidity determinations are limited to the documentation supporting an offset credit and establishes a materiality threshold with respect to the review of such documentation. The process of invalidation determinations does not apply to instances in which ARB later may conclude that an approved compliance offset protocol needs to

[5] We recommend that the regulatory language for the CBA not use the word "reversal," as the current language in Section 95985(b)(2) does. In the Cap-and-Trade regulations, "reversal" is term of art specific to forest offset projects (*i.e.*, events that result in the harvesting or destruction of forests). The types of invalidation based on the documentation supporting offset credits that is at issue here is quite different. Again, our CBA proposal is intended to be wholly independent of the Forest Buffer Account and the regulatory language should be consistent with this distinction.

be modified in some way due to evolving protocols, standards, processes, science, opinion, or regulatory or legislative changes that take place after the preparation of the original documentation. Any such changes would apply only prospectively and not to credits generated by offset projects that were in full compliance with the protocols in place at the time.

Finally, any system by which offset credits may be invalidated must provide due process to potentially liable entities. There are a number of elements to this process.

- **Limitations Period:** A limitations period should be established for claims of invalid documentation asserted against any particular offset credit. As the matter at issue is the invalidation of particular offset credits, the triggering event for the limitations period should be the date of issuance of the credits. We propose a limitations period of seven years, which would be long enough to ensure that at least two different verifiers will have evaluated the offset project generating the credits.

- **Written Determination.** We do not propose particular standards for invalidating offset credits, other than that ARB must determine that the documentation supporting issuance of the credits is materially not "true, accurate, or complete," and any such determination shall not be based on evolving protocols, standards, processes, science, opinion, or on regulatory or legislative changes that take place after the preparation of the documentation in question. Rather than attempt to specify more exact criteria for making such determinations at this stage, we propose to require that ARB explain the basis for its determination publicly and in writing so that all may understand why a particular offset credit was invalidated.

- **Notice of Invalidity Determination.** To ensure due process, those associated with offset credits that have been invalidated must be advised of the invalidation. The issuance of this Notice likely would be limited to the Offset Project Operator and/or Designee, the Verifier(s), and the Registry(ies). Current holders of the credits also should be notified, but, since their credits will not be invalidated, sending them the Notice is not as critical. The Project Operator, Designee, Verifier(s) and Registry(ies) will have an interest in protecting their good standing with ARB, whether it be by appealing a determination that they believe was erroneous or by replenishing the CBA. The issuance of this Notice also serves as a good vehicle for issuing demands to replenish the CBA. (See below.)

- **Right of Appeal.** Those with an interest in offset credits that have been invalidated must have a right of appeal to ensure due process. The written determination would be the subject of the appeal. We suggest that appeals be handled by ARB's independent Administrative Hearing Office, as it is well equipped to handle such matters and has the independence and experience to ensure that due process is provided in the proceedings. This also will serve to enhance market and societal confidence in the integrity of the system. We suggest that the party appealing the determination be required to replenish the offset credits that are retired from the CBA by ARB. In the event that the party prevails on appeal, the credits that ARB had

retired from the CBA will be restored to the CBA and an equal number of credits will be issued from the CBA to the prevailing party.

2. Remedy in the Event of an Invalidation Determination — Retirement of Credits from the CBA and Enforcement Against Responsible Entities.

a. Immediate Retirement of Credits from the CBA.

The CBA approach ensures environmental integrity by providing for the immediate retirement of credits from the CBA to counterbalance the already issued credits that were subject to an invalidation determination. The remedy is immediate, as ARB need not deal with any third parties to obtain the replacement credits. In this respect, the alternative is superior to the buyer liability approach, under which ARB must pursue the compliance entity and demand that it replace the credits.

After the immediate balance is restored by retiring credits from the CBA, it is appropriate that some effort be made to replenish the CBA, both in order to maintain the long-term ability of the CBA to backstop the program and to guard against the moral hazard of market participants failing to adhere to the offset program's requirements. Whether ARB should pursue replenishment or rely upon the CBA alone depends upon the size and character of the invalidation determination. Offset credits may be determined to be invalid for a number of reasons, which, as noted above, would be explained in writing by ARB. In general, the reasons for invalidation fall into two broad categories — those involving fault of some kind (*e.g.*, willful intent, gross negligence) and those involving simple error (*e.g.*, mis-measurement, negligence). With respect to replenishing the CBA, we propose to treat these causal categories differently. However, it bears repeating that in both instances ARB already would have accessed the CBA promptly to retire and to replace credits that were invalidated, thereby making the system whole.

b. Replenishing the CBA after Credits have been Retired to Replace Invalidated Credits — Enforcement Against Responsible Entities.

In the event that ARB determines that credits must be invalidated due to bad acts of some kind, it is appropriate that the responsible entities are held accountable. As ARB will have explained in writing the basis for its invalidation determination, it likely will be able to identify the entities responsible for the invalidation. It may not be able to exactly apportion responsibility among multiple responsible parties, but it need not do so. In the event that the invalidation was the result of gross negligence or willful intent, ARB would be required to pursue the responsible entity(ies), both with regard to any violations of the program and with regard to replenishing the CBA. The attached Appendix A includes a discussion of the powerful enforcement tools already at ARB's disposal under the regulations that help to ensure compliance.

Holding accountable the entity(ies) responsible for invalidations due to gross negligence or willful intent not only will effect justice in the case at issue, it will help to ensure the integrity of the system by making certain that bad actors are not allowed to continue to operate. This also

will serve to increase market and societal confidence in the system, which is necessary for it to function well.

Moreover, we suggest that ARB maintain a record of invalidation determinations. ARB may wish to review that record when considering registration applications by Verifiers, Offset Project Operators, Authorized Project Designees, or Offset Project Registries. That in itself will act as an additional safeguard, as market participants will have an interest in maintaining their good standing.

3. Funding and Managing the CBA.

a. Funding the CBA.

The CBA would be funded by a holdback on each issuance of offset credits for an offset project. In determining the appropriate size of the CBA, it is important to first define the parameters of credit validation risk. The CBA program design, as well as existing ARB pre-issuance and post issuance offset program safeguards, give us confidence that the residual risk of credit invalidation is quite minimal. These reasons are discussed in detail in the attached Appendix A. We believe the appropriate amount of the initial holdback is **1.5%**. We believe the holdback percentage is conservative, and should provide more than a sufficient supply of offsets in the CBA to cover any credit invalidations.

It bears mention at the outset of this discussion that to date ARB has rejected "applying an arbitrary discount factor . . . across projects to account for risk and uncertainty," because that could "penalize projects that achieve truly real and additional emissions reductions." Staff Report: Initial Statement of Reasons at III-8.

For the purpose of evaluating the level of funding for the CBA, we looked at the leading carbon offset programs, including the Clean Development Mechanism (the "CDM"), which is administered by the United Nations under the Kyoto Protocol, and the voluntary carbon offset programs of the Climate Action Reserve ("CAR") and the Verified Carbon Standard ("VCS"). The CDM provides the most robust data set for this analysis, due to the availability of more than five years of credit issuance data, sufficient transparency in the credit issuance process, and the compliance nature of the program. (CDM issued offsets can be used for compliance under the Kyoto Protocol and under the European Union's Emissions Trading Scheme.)

We found ***no*** known instances of fraud in the CDM nor in the two voluntary carbon offset programs. Erroneous issuance is difficult to determine, but the CDM provides a useful proxy: issuance rejections. The CDM process empowers its Executive Board to reject credit issuance requests from project owners, and the Board has done so 34 times out of 2,573 requests as of April 18, 2011. The 34 issuance rejections total 5,768,738 tCO2e out of 598,143,088 tCO2e of credits issued, or 0.96%.[6] Informal discussions with CAR and VCS personnel suggest

[6] The main reasons for issuance rejection are twofold: (a) the actual project deviated from the project documentation when the project was registered and the Executive Board was not notified of the change to the project; and (b) the project did not correctly follow the monitoring methodology.

that their respective rates of erroneous issuance are actually far below the CDM's rate of issuance rejection.

We believe the carbon offset program ARB has created is even more robust than the CDM, and as a result should have rates of erroneous issuance that are well below the historic rates of the CDM. For this reason we believe an initial holdback of 1.5% is conservative.

b. Managing the CBA.

We propose that ARB manage the CBA. The administrative burdens involved would be minimal, particularly when one considers that ARB will be managing the separate but similar Forest Buffer Account. Maintaining direct control over the CBA also will make it easier for ARB to access it in the event of any invalidation determinations; it will not need to work with any third parties to obtain the replacement credits. In addition, having a government entity manage the CBA ensures a level playing field for all project developers.

c. Adjusting the Holdback to Ensure Adequate Funding of the CBA.

We propose that ARB conduct regular reviews of the CBA to ensure that it is adequately funded. We propose that such reviews be done at the end of each compliance period, and ARB then could adjust the holdback percentage for the next crediting period based upon its experience with the one just ending. More data will become available over time to assist ARB in determining the appropriate holdback percentage.

In the event that credits in the CBA run low, ARB could increase the holdback percentage for projects registered in the next compliance period or entering a subsequent crediting period. In order to minimize interference with contracts and market expectations, it would be important to apply the new holdback percentage only to newly approved projects and existing projects entering a new crediting period — and not to projects that are in the middle of a crediting period.

Because we believe the residual risk of uncollected credits in this system is quite low (see Section C.3.a above and Appendix A), we think it is quite possible that the CBA would grow to a sizable amount. In that event, ARB would reduce the holdback percentage to be applied in the next compliance period. The "extra" credits in the CBA could be retired or allowed to remain in the CBA indefinitely. This would mean that the offset system would be contributing reductions *below* the level of the AB 32 emissions cap, thereby further enhancing the environmental integrity of the program.

D. Conclusion.

We appreciate ARB's consideration of this proposal, which we believe has the attributes of environmental integrity, market efficiency, and administrative simplicity. We look forward to

working with ARB on this issue and stand ready to answer any questions or provide additional information.

Appendix A

Considerations in Determining the Size of the Compliance Buffer Account

The proposed alternative would establish a Compliance Buffer Account (”CBA”) with an amount of offset credits sufficient to cover circumstances in which offset credits are invalidated for any reason, be they the result of willful intent or unintentional error. The probability of such invalidations occurring and the amount of affected credits is very low because of the basic structure and design of the CBA rules for invalidation determinations, as well as regulatory and enforcement structures already provided in the Cap-and-Trade Regulations. This appendix describes the various checks — including both program design, pre-issuance safeguards, and post-issuance enforcement tools — that together reduce the residual risk of invalidation to a minimum.

CBA Program Design Elements:

1. Limitations Period. A limitations period should be established for invalidity claims. This is consistent with other ARB enforcement provisions. We propose a limitation period of seven years, which is long enough to ensure that at least two different verifiers will have evaluated the offset project. With this limitation in place, the size of the CBA can account for the continual rolling-on of new projects and rolling-off of older projects that have undergone their second verification.

2. Project Types. The CBA should be used to cover discrepancies related to project documentation. Reversals at forest projects would continue to be addressed through the structure outlined in the Forest Offset Protocol, including the Forest Buffer Account.

3. Invalidation Criteria. In the event of gross negligence or willful intent, we urge ARB to seek replacement credits from the responsible entities, thereby minimizing the number of credits that need to be maintained in the CBA.

Pre-Issuance Safeguards:

4. Offset Projects Must Adhere to Rigorous Offset Protocols. The Cap-and-Trade Regulations require ARB to establish project protocols that are conservative in their assessment of reductions or sequestration achieved by offset projects. The Regulations define “conservative” as “utilizing project baseline assumptions, emission factors, and methodologies that are more likely than not to *understate* net GHG reductions or GHG removal enhancements for an offset project to address uncertainties affecting the calculation or measurement of GHG reductions or GHG removal enhancements.” Section 95802(41) (emphasis added).

5. All Responsible Entities Register with ARB and are Subject to its Enforcement. For every offset project, ARB will have a responsible person reachable by legal process. Either the Offset Project Operator or the Authorized Project Designee must register with ARB as specified in Section 95830, thereby becoming subject to ARB’s jurisdiction, as

provided in Section 96010(a). To register with ARB, they must not have been the subject of an enforcement measure under Section 96011, and must expressly take responsibility for ensuring that the requirements for the listing of offset projects are met. See Sections 95974(a) and 95975(a). That responsible person also must expressly consent to be "subject to all regulatory requirements and enforcement mechanisms of [the] program." Section 95975(b)(2). This is the critical point of regulation that enables ARB to enforce compliance with the program's regulatory requirements.

Those requirements for which the ARB-registered Project Operator or Designee is responsible are many and rigorous in order to ensure the integrity of the offsets. Before any offset credits will issue, the Project Operator or Designee must provide information for listing pursuant to section 95975, monitor and report pursuant to section 95976, have the project verified pursuant to section 95977 through an approved Offset Project Registry, provide the detailed information specified in section 95981(d), and attest to the accuracy of that information under penalty of perjury. Section 95981(d)(1)(F).

6. <u>Offset Projects are Verified by Certified, Independent, Third-Party Verifiers</u>. The offset system's key check on fraud and error is the verification process. All projects undergo extensive verification, which includes a requirement that the verifier must ensure that project data has no risk of "offset material misstatement." Section 95802(125). All verifiers must be accredited by ARB and are subject to its regulatory powers. *See* Sections 95978 and 95132. In addition, the extensive and strict conflict of interest requirements set forth in Section 95979 ensure that projects will have been evaluated by more than one verifier. In practice, verifiers will be relatively few in number and will be subject to substantial oversight and enforcement authority by ARB.

Post-Issuance Safeguards:

7. <u>ARB has Powerful Enforcement Tools to Ensure Compliance</u>. The Cap-and-Trade Program's pre-issuance safeguards are supported by ARB's broad enforcement powers under Sections 95985 (Invalidation of Offset Credits) and 96011 (Authority to Suspend, Revoke or Modify).

Taken together, the regulations' existing rigorous requirements, combined with the requirement of an unambiguous designation of a person responsible for compliance who is subject to ARB's jurisdiction, have the effect of reducing the risk of uncompensated fraud or material error to a minimum.

Appendix B

A list of coalition member companies can be found on the following websites:

IETA: http://www.ieta.org/index.php?option=com_content&view=article&id=168&Itemid=136

CERP: http://www.uscerp.org/f-26.html

COPC: http://www.carbonoffsetproviders.org/2.html

WSPA: http://www.wspa.org/member-list.aspx

CMIA: http://www.cmia.net/WhoareCMIA/MeetCMIAsMembers/tabid/161/language/en-US/Default.aspx