LAW OFFICES OF SUSIE BERLIN

1346 The Alameda, Suite 7, #141
San Jose, CA 95126
408-778-8478
berlin@susieberlinlaw.com

Submitted Via Electronic Transmission

October 23, 2013

Mary Nichols
Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: *Comments of the Northern California Power Agency on Proposed Amendments to the Cap-and-Trade Program Regulation*

Dear Mary:

On September 4, 2013, the California Air Resources Board (CARB) released Proposed Amendments to the Cap-and-Trade Program Regulation (Proposed Amendments).[1] The Northern California Power Agency[2] (NCPA) appreciates the opportunity to provide these comments to the Board regarding potential revisions to the Cap-and-Trade Program Regulation (Regulation).

I. INTRODUCTION AND SUMMARY OF RECOMMENDATIONS

NCPA and its member agencies are committed to achieving the goals and objectives of California's greenhouse gas (GHG) emissions reduction measures, and have been active participants before this agency regarding many of the programs considered and adopted pursuant to the Scoping Plan, and particularly in the development of the Cap-and-Trade Program

1 In addition to the *Notice of Public Hearing to Consider Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms*, CARB issued a *Staff Report: Initial Statement of Reasons* (ISOR), to which the proposed amendments were included as *Appendix E: Proposed Regulation Order* (Proposed Amendments).

2 NCPA is a not-for-profit Joint Powers Agency, whose members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, and the Truckee Donner Public Utility District, and whose Associate Member is the Plumas-Sierra Rural Electric Cooperative.

(Program). Thus far, NCPA believes that the Program has functioned as expected, and that covered entities are acclimating to the various requirements and restrictions associated with registering with CARB and using the Compliance Instrument Tracking System Service (CITSS). Moving forward, it is important that the Program continue to be administered and operated in a manner that will allow the State to meet its GHG emission reduction goals, while ensuring that electrical distribution utilities complying with the Regulation are able to continue to provide safe, reliable, and reasonably priced electricity to California residents and businesses.

NCPA appreciates the efforts that have gone into drafting the Proposed Amendments, but is concerned that some of the Proposed Amendments are unnecessary and would only result in greater administrative burdens and compliance costs for covered entities. The key issues addressed herein are summarized below. NCPA also supports the comments submitted by the Joint Utilities Group, of which NCPA has been an active participant.

- The Regulation should include more robust cost containment protections that represent a suite of measures;
- Proposed Revisions properly clarify permissible disclosures of auction-related information under limited circumstances;
- Provisions regarding the disclosure of employees are overly broad and burdensome;
- Covered entities should be able to designate the order in which their compliance instruments are retired, and the system should distinguish between purchases and freely allocated allowances;
- Definitions for "safe harbor" transactions that do not constitute resource shuffling are properly added to the Regulation, and further clarification should be added to avoid potential penalties for legitimate transactions;
- The Regulation should not place unreasonable constraints on an entity's ability to participate in the auction based on changes 30 days prior and 15 days after the auction;
- Covered entities subject to the State's renewable portfolio standard mandates should not be required to retire RECs in order to utilize the RPS Adjustment;

- Allowances are properly allocated to natural gas suppliers, and the allowance value should be returned to natural gas ratepayers in the manner deemed the most appropriate by the gas utility;

- Provisions regarding the disclosure of cap-and-trade contractors should specifically exclude lawyers; and,

- The Regulation should clarify the effective date for allowance allocation to electrical distribution utilities and for POU designation reporting.

II. COMMENTS ON THE PROPOSED AMENDMENTS

A. Cost Containment: The Regulation should include more robust cost containment protections that represent a suite of measures.

Ensuring that the price of allowances never reaches the highest level of the Allowance Price Containment Reserve Account (APCR) is crucial to the success of the Program. NCPA appreciates staff's response Board Resolution 12-51,[3] but the proposal set forth in the Proposed Amendments falls short of fully addressing the concerns that precipitated the Board's direction. In Section 95913(f)(5)(E), the Proposed Amendments would increase the availability of allowances at the highest priced tier APCR, which provides covered entities some relief in the event of short-term price spikes. However, this cost containment proposal – without more – does not address the specific direction set forth in Resolution 12-51 to ensure that "allowance prices will not exceed the highest price tier" of the APCR. The overall price of allowances may exceed this threshold, and the option does not protect against long-term price volatility, as it draws from allowances that would be available in future years. Nor does the proposal guarantee the availability of allowances for all covered entities. While purchases from the APCR are restricted to covered entities, the APCR does not have a mechanism to ensure a sufficient supply of allowances to meet demand, and if there are insufficient allowances, covered entities will be given only a pro-rated share of their requested purchase amount under the unrevised provisions of section 95913(h). Furthermore, the Proposed Amendment does not specifically address more moderately priced responses to potential price volatility that may not necessarily result in

3 Resolution 12-51, page 2. California Air Resources Board, October 2010; http://www.arb.ca.gov/cc/capandtrade/final-resolution-october-2012.pdf.

exhausting the APCR, but which could adversely impact the price and availability of allowances generally.

NCPA urges the Board to direct staff to continue working with stakeholders and its own Emissions Market Assessment Committee to develop a long-term strategy that would address instances of prolonged price volatility, as well as allowance availability. As noted in the Joint Utility Group proposal presented during the June 25 Cap-and-Trade Workshop, "a robust cost containment approach would utilize a combination of approaches to ensure success."[4] The Regulation should include a suite of cost containment measures – including those that can be implemented in the near and long term. These measures should incorporate options that increase the availability of allowances and implement certain triggers that ensure covered entities will have access to allowances, even in advance of a depletion of the third tier of the APCR. Doing so will help to ensure the success of the Program and meet the specific direction provided by the Board in Resolution 12-51.

B. Disclosure of Auction-Related Information: Proposed Revisions properly clarify permissible disclosures of auction-related information under limited circumstances.

NCPA supports the language in new section 95914(c)(2)(C) of the Proposed Amendments recognizing that there are instances under which auction bidding information may be disclosed. This new section properly authorizes the release of information otherwise prohibited under 95914(c)(1) under the following conditions:

(A) When the release is to other members of a direct corporate association not subject to auction participation restriction or cancellation pursuant to section 95914(b),

(B) When the release is to an auction bid advisor whose activity has been disclosed to the Executive Officer pursuant to section 95914(c)(3).

(C) When the release is made by a publicly-owned utility only as required by public accountability rules, statute, or rules governing participation in generation projects operated by a Joint Powers Authority or other publicly-owned utilities.

(D) When the release is by an electric distribution utility of information regarding compliance instrument cost and other disclosures specifically required by the California Public Utilities Commission. In the event of a disclosure pursuant to this section, the electricity distribution utility must provide the specific statutory reference to ARB that requires the disclosure of the information.

4 Joint Utilities Group Cost Containment Proposal, Air Resources Board Cost Containment Workshop June 25; http://www.arb.ca.gov/cc/capandtrade/meetings/062513/industry-present.pdf.

These changes reflect certain clarifications and rationales set forth in Chapter 5 of the Regulatory Guidance Document,[5] and are necessary to ensure that the Regulation do not inadvertently impede the ability of covered entities to comply with existing rules governing their ongoing contractual obligations. Including these distinctions in the Regulation also acknowledges the fact that disclosure of certain auction-related information amongst these related entities does not provide an unfair advantage to any one entity, nor does it enhance the likelihood of market manipulation. The Regulation is properly amended to allow for these limited exceptions to the restrictions on disclosure of auction-related information consistent with the Regulatory Guidance Document.

C. Reporting Employees: Provisions regarding the disclosure of employees are overly broad and burdensome.

The Proposed Amendments should be revised to remove burdensome and unnecessary employee reporting requirements. Section 95830(c)(1) of the Regulation sets forth a list of information that a covered entity must provide in order to register for a CITSS account. The Proposed Amendments would change section 95830(c)(1) to require covered entities to provide additional information, including "*names and contact information for all persons employed by the entity in a capacity giving them access to information on compliance instrument transactions or holdings, or involving them in decisions on compliance instrument transactions or holdings.*"

NCPA appreciates the fact that staff has attempted to revise the requested information to reflect the concerns raised by stakeholders in their comments to the June 15, 2013 Discussion Draft. However, as drafted, the Proposed Amendments still seek information on a very broad range of employees, and the ambiguity regarding the scope of an employee's responsibilities as it pertains to the program remain. Employees involved in a capacity "*involving them in decisions on compliance instrument transactions or holdings*," would likely be a manageable and finite list. The same is not true for compiling a list of "*all persons employed by the entity in a capacity giving them access to information on compliance instrument transactions or holdings";* this requirement could result in the covered entity disclosing its entire employee roster. Indeed, persons that have access to that information and transactions can change often and without

5 http://www.arb.ca.gov/cc/capandtrade/guidance/guidance.htm.

notice. The scope of this requested information remains overly broad. There must be additional parameters around an individual's "access to any information regarding compliance instrument transactions, or holdings," otherwise this could ostensibly include all employees of a covered entity at any given time.

It is also important to note that covered entities have already provided CARB with extensive information on its Primary Account Representatives (PARs), Alternate Account Representatives (AARs), and directors and officers, as that information is already required to be disclosed under the Regulation and for registration with CITSS. Before expanding the covered entities' reporting obligations, there must be a demonstration that the individuals at issue are directly involved in making decisions regarding the acquisition and disposition of compliance instruments. CARB's desire to obtain more disclosure regarding the individuals that are involved in the decision-making process must be balanced and weighed against an additional and potentially burdensome reporting requirement. The reporting should be limited to include only employees that will have access to information regarding trading transactions or similar conduct. The scope of the access and the type of information the employee has access to must be defined in such a way as to address the agency's concerns without being overly broad.

CARB's desire to track the conduct of entities and prevent potential manipulation or malfeasance in the market is laudable. However, as a means to that end, the reporting required under subsection (I) of 95830(c)(1) is overly broad. CARB seeks "information for all persons employed by the entity in a capacity which would give them knowledge of the entity's decisions on compliance instrument transactions or holdings,"[6] but the rationale appears to be directly targeted at ensuring that voluntarily associated entities do not game the Program and benefit because of their employment status. This legitimate concern is adequately addressed in the context of the Proposed Amendments to section 95814 regarding Voluntarily Associated Entities, and specifically section 95814(a)(3) and (6).

6 ISOR, pp. 104-105.

D. Order of Compliance Instrument Retirement: Covered entities should be able to designate the order in which their compliance instruments are retired, and the system should distinguish between purchases and freely allocated allowances.

Rather than specify the order in which compliance instruments are removed from an entity's compliance account for retirement, as proposed in the Discussion Draft, section 95856(g) of the Proposed Amendment would not have compliance instruments retired in each annual review, but rather merely "*determine the status of compliance with the annual compliance obligation by evaluating the number and types of compliance instruments in the Compliance Account*."

During the July 18 Workshop, stakeholders expressed a desire to have the ability to designate which allowances they would like withdrawn by CARB for retirement. Such a feature should be implemented, as it is necessary for covered entities that need to distinguish between their allowances by vintage, and would also facilitate tracking of allowances generally. The self-designation could be required by a certain date in advance of when the Executive Officer would withdraw the allowances under section 95856, and in the event that the covered entity failed to make such a designation, the provisions set forth in section 95856(h) would be controlling. The PAR or AAR would have the authority to make the designation.

The Regulation should include a way to distinguish between freely allocated allowances and those purchased by an electrical distribution utility. Section 95856(h) of the Proposed Amendments makes no distinction between freely allocated and purchased allowances, which can be problematic for some electrical distribution utilities. In the event that entities are not allowed to designate their preferred allowance retirement order as discussed above, the Regulation should make such a distinction. Being able to distinguish between purchased and freely allocated allowances is necessary to address the restrictions on the use of allowances and allowance value set forth in section 95892(d)(5) of the Regulation. If the vintage alone is used to determine allowances withdrawn from the compliance account, an electrical distribution utility that has placed its freely allocated allowances directly into its compliance account could be in a situation where allowances are retired for a use prohibited by section 95892(d)(5). Therefore, the classification of allowances should be further defined to distinguish between freely allocated

allowances and purchased allowances, and this designation should be taken into account before withdrawing allowances by vintage generally.

E. Resource Shuffling: Definitions for "safe harbors" transactions that do not constitute resource shuffling are properly added to the Regulation, and further clarification should be added to avoid potential penalties for legitimate transactions.

NCPA appreciates that the Proposed Amendments would include the definition of resource shuffling and proposed "safe harbors" that were previously found in the Regulatory Guidance Document, and strike the attestation requirement. Resource shuffling undertaken to avoid a compliance obligation under the Cap-and-Trade program is properly prohibited in the Regulation, and the proposed revisions go far in explaining how this restriction is intended to work. The Regulation should also be drafted in such a way as not to constrain or impede legitimate electricity transaction merely because the generation resources used in those transactions may not have the same GHG emissions.

Resource shuffling must be a transaction that involves a *plan, scheme, or artifice on the part of the compliance entity*. As the ISOR recognizes, there are "several situations in which substitutions of low emission electricity for higher emission electricity may occur that are not undertaken to reduce compliance obligations."[7] The conditions and safe harbors listed in section 95852(b)(2)(A) of the Proposed Amendments include the most common kinds of transactions involving electricity imports with substitutions between sources with different emissions levels. However, the prohibition in section 95852(b)(2)(B)(1) may inadvertently capture legitimate, yet undefined, transactions. The safe harbor list is not exhaustive, and myriad transactions could result in the appearance of resource shuffling, but in fact, involve no plan, scheme, or artifice on the part of the first deliverer to reduce its emissions compliance obligation. Accordingly, section 95802(a)(252) of the Regulation should be amended to clearly reflect this.

> "Resource Shuffling" means any plan, scheme, or artifice ~~to receive credit based on emissions reductions that have not occurred, involving the delivery of electricity to the California grid~~ undertaken by a First Deliverer of Electricity to substitute electricity deliveries from sources with relatively lower emissions for electricity deliveries from sources with relatively higher emissions resources to reduce its emissions compliance obligation. *Not all substitutions of electricity between sources with different emission levels are resource shuffling, and* ~~R~~resource shuffling

7 ISOR, p. 30.

does not include substitution of electricity deliveries from sources with relatively lower emissions for electricity deliveries from sources with relatively higher emissions resources when the substitution occurs pursuant to the conditions listed in section 95852(b)(2)(A).

F. Constraints on Auction Participation: The Regulation should not place unreasonable constraints on an entity's ability to participate in the auction based on changes 30 days prior to and 15 days after the auction.

The Regulation must balance CARB's interest in monitoring the market and overseeing the conduct of covered entities with those same entities' need to operate their core businesses and comply with the Regulation. Section 95912(d)(5) of the Proposed Amendments should be removed or significantly modified in order to avoid substantial disruptions to basic business operations. Under the Proposed Amendments, entities with "*any changes to the auction application information listed in subsection 95912(d)(4) or account application information listed in section 95830 within 30 days prior to an auction , or an entity whose auction application information or account application information listed in section 95830 will change within 15 days after an auction, may be denied participation in the auction*." Even without a closer look at the detailed list of information that is implicated under sections 95912(d)(4) and 95830, any restrictions on corporate changes that would impede regular business transactions for 45 days, four times a year is unreasonable. The Proposed Amendments can implicate matters such as a PAR or ARR leaving the company, or a call to raise capital. NCPA understands that staff is primarily concerned with corporate changes that could impact auction settlements or provide other entities a competitive advantage in the auction. However, the breadth of the proposed restriction goes far beyond addressing that specific concern. Instead, the requirement would endanger normal business transactions, and indeed, could be implicated even in instances where the registered entity has no control over the changes. The Proposed Amendments already address the need for "notification" of changes in section 95830(f). Accordingly, NCPA urges the Board to direct staff to remove this provision. In the event that similar restrictions are deemed essential to the Program, section 95912(d) should be revised as set forth below, and also identify the core information and/or circumstances that CARB is seeking to prohibit.

An entity with any changes to the auction application information listed in subsection 95912(d)(4) or account application information listed in section 95830 within 30 days prior to an auction, or an entity whose auction application information or account application information listed in section 95830 ~~**will**~~ change**d** ~~**within**~~15 days after an

auction **shall update the information listed in 95912(d)(4) within 10 working days of such change**. ~~**may be denied participation in the auction.**~~

G. RPS Adjustment: Covered entities subject to the State's renewable portfolio standard mandates should not be required to retire RECs in order to utilize the RPS Adjustment.

NCPA appreciates CARB's recognition of the interaction between the State's renewable energy mandate (RPS program) and the Cap-and-Trade program, both of which play critical roles in California's green-energy future. In order to fully reconcile these two programs, the Proposed Amendments should reflect the covered entities' obligations under the RPS program requirements, as those requirements are set forth in Public Utilities Code Section 399.11, et seq., and implemented by the California Public Utilities Commission (CPUC) and California Energy Commission (CEC). Accordingly, NCPA urges the Board to direct staff to propose amendments to the provisions of section 95852(b)(4)(B) to clarify the rules governing when the RPS Adjustment may be claimed, in light of the fact that the associated renewable energy credit (REC) may not be retired in the same year that the electricity is generated and imported under the RPS program.

As NCPA understands it, CARB is seeking to ensure that the RECs associated with renewable energy be placed into WREGIS so that they may be tracked without the risk of double counting. RECs generated by WREGIS, however, do not have to be retired within a year of generation, and it is important that the Regulation reflect this distinction. Since CARB first adopted the Regulation, the CPUC has moved forward with defining the RPS program requirements for CPUC-jurisdictional entities, and the CEC has adopted both the Seventh Edition of the RPS Eligibility Guidebook[8] and the RPS Enforcement Regulations for POUs.[9] Under the RPS program, RECs used to meet the RPS program mandates may be retired anytime within 36 months of generation.[10] NCPA urges CARB to look closely at the provisions of the

8 Renewable Portfolio Standard Eligibility Guidebook, 7th Edition (RPS Guidebook); http://www.energy.ca.gov/2013publications/CEC-300-2013-005/CEC-300-2013-005-ED7-CMF.pdf.

9 Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities (POU Enforcement Procedures) http://www.energy.ca.gov/2013publications/CEC-300-2013-002/CEC-300-2013-002-CMF.pdf.

10 *See* Public Utilities Code section 399.21(a)(6), POU Enforcement Procedures, section 3202, and RPS Guidebook, Section V.C at p. 91.

RPS programs, including the RPS Enforcement Regulation, and particularly, to recognize that there are significant undesirable consequences and adverse impacts associated with constraining the ability of electric utilities to fully utilize the value of their RECs. NCPA urges the Board to direct amendments that strike the retirement requirement altogether. The Regulation should be amended to address the retirement requirements that are mandated under the State's RPS program, and not assigned an arbitrary deadline under the Cap-and-Trade Program.

H. Allocation to Natural Gas Suppliers: Allowances are properly allocated to natural gas suppliers, and the allowance value should be returned to natural gas ratepayers in the manner deemed the most appropriate by the gas utility.

NCPA supports the allocation of allowances to natural gas suppliers for the protection of natural gas ratepayers set forth in section 95893 of the Proposed Amendment. Natural gas customers will face rate increases associated with Program compliance costs, and as such, are the appropriate recipients of allowance revenues that are allocated to the natural gas suppliers. The proposed revisions properly recognize that the natural gas utility can place restrictions on the use of the allowance value, as long as the value is used exclusively for the benefit of retail ratepayers of each natural gas supplier, consistent with the goals of AB 32.

The Regulation should not include a prohibition on the return of the allowance value in a volumetric manner, as contemplated in section 95893(d)(3). Each natural gas supplier's governing body should be able to define the manner in which the allowance value is returned to its ratepayers, consistent with the goals of AB 32. If there are instances where the maximum benefit is achieved by returning the value on a volumetric basis, then the customer is best served by receiving the value in such a manner. There are a number of considerations that will be incorporated into the final distribution of allowance value to the end-use customer, and those considerations should be specifically tailored to serve the best interests of the customers of each individual natural gas utility. NCPA urges the Board to direct staff to draft 15-day revisions that would allow natural gas utilities to return the value in any manner they deem appropriate as long as the value "*is used exclusively for the benefit of retail ratepayers of each natural gas supplier, consistent with the goals of AB 32*," including returning the revenue to the ratepayers in a volumetric manner.

I. Disclosure of Cap-and-Trade Contractors: Provisions regarding the disclosure of cap-and-trade contractors should specifically exclude lawyers.

NCPA appreciates the fact that the Proposed Amendments reflect changes to section 95923 from what was set forth in the Discussion Draft. As expressed in earlier comments, the proposed addition of section 95923(a) included an ambiguous and potentially broad definition of individuals that "advise and consult." The Proposed Amendments narrow the scope of this request, but is still problematic. As NPCA understands it, CARB is concerned that auction and other advisors could be working for more than one registered entity, and thereby have access to information that could then be used for some kind of malfeasance. NCPA further understands from meeting with CARB staff that the intent of this section is not to obtain information regarding attorneys working with registered entities, nor to compel entities to disclose information that would otherwise be privileged. NCPA appreciates this clarification and urges the Board to include it within the list of proposed 15-day changes to the Regulation. However, that does not address other concerns stemming from this Proposed Amendment.

Consultants and advisors can work with entities on a range of issues and matters, from advising on reporting deadlines to potential use of allowance values. Requiring reporting to CARB about all such individuals is not warranted unless those individuals have access to confidential or restricted information, or direct control over compliance instrument disposition. Further, a strict reading of the current language could impose upon registered entities a requirement to report and disclosure all employees of their various consultants and advisors or be in violation of the Regulation. This request could place a significant burden on the registered entity to report every employee of an advisor or consultant that may review the company's file, even assuming the registered entity knows who those individuals may be.

While acknowledging CARB's concerns, the Proposed Amendments place an unreasonably broad burden on registered entities. As discussed above with regard to employee information disclosures, the restrictions and burdens should be placed on individuals registering for CITSS as voluntarily associated entities; with that information, on a case-by-case basis, CARB would be notified of relevant information, and can make a determination regarding which

individuals should not be permitted to participate in CITSS.[11] NCPA urges the Board to strike in its entirety the Proposed Amendment that would add section 95923 to the Regulation. In the alternative, should the section remain, it should be revised to provide that:

> (a) A "Cap-and-Trade Consultant or Advisor" is a person or entity that is not an employee of an entity registered in the Cap-and-Trade Program, but is paid for information or advice related to the Cap-and-Trade Program specifically for the entity registered in the Cap-and-Trade Program. Cap-and-Trade Consultants and Advisors do not include attorneys.

J. Allocation of Allowances to Electrical Distribution Utilities: The Regulation should clarify the effective date for allowance allocation to electrical distribution utilities and for POU designation reporting.

The Proposed Amendments would revise section 95870 to allocate allowances to electrical distribution utilities on October 14, rather than November 1, for allocations from 2014-2020 annual allowance budgets. Given the timing change and the potential effective date of any amendments adopted by the Board, the October 14 distribution may not be effective until allocation from the 2015 annual allowance budget, and the Proposed Amendments should clarify this. The Regulation should be further revised to make corresponding changes to the September 1 deadline for POUs to inform CARB of the designation of their freely allocated allowances per Section 95892(b)(3).

The Proposed Amendments would also revise section 95892 relevant to the free allocation of allowances to two electrical distribution utilities. As NCPA understands it, this revision is necessary to correct an inadvertent mathematical error that was applied to the allowance allocation formula first adopted by the Board in 2011. As set forth in the ISOR, the changes are being undertaken ". . . based on new information regarding the cost burden for Cap-and-Trade compliance faced by each EDU's ratepayers,"[12] and the proposed change to the allocation to the two EDUs is "based on new information regarding the cost burden for Cap-and-Trade compliance faced by each EDU's ratepayers.[13] The ISOR goes on to explain that the

[11] This disclosure could be addressed in a similar manner as the proposed revisions regarding Voluntarily Associated Entities set forth in section 95814.

12 ISOR. p. 19.

13 See ISOR, pp. 161-162.

changes are being made because emissions are different from what was assumed based on previous information.[14] Since allowance allocation methodology was intended to address the distribution of allowances for the duration of the cap-and-trade program through 2020, in order to avoid confusion, it is important for the Final Statement of Reasons that accompanies the regulatory amendments to clearly explain that the changes were made based on the result of a review of the calculations applied to the original data set and methodology, and not based on the provision of any new information regarding the cost burden.

III. CONCLUSION

NCPA appreciates the opportunity to provide these comments to CARB on the Proposed Amendments, and looks forward to working with staff on crafting revisions that can be included in the 15-day changes that will facilitate the continued success of the Program without impeding the ability of covered entities like NCPA and its members to comply with the Regulation.

If you have any questions regarding these comments, please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com.

Sincerely,

C. Susie Berlin
LAW OFFICES OF SUSIE BERLIN

Attorneys for the:
NORTHERN CALIFORNIA POWER AGENCY

14 *Id.*