

**FACTS ABOUT****Compliance Offset Credits Under Investigation**

*This document provides additional information regarding the compliance offset credits investigation pursuant to section 95985 of the Cap-and-Trade Regulation (Regulation).*

**Background**

The California Air Resources Board (ARB) is investigating if compliance offset credits issued for ozone depleting substances (ODS) destruction events that took place at the Clean Harbors Incineration Facility in El Dorado, Arkansas may have been generated while the facility was not in compliance with provisions of its operating permit issued under the federal Resource Conservation and Recovery Act (RCRA). Under section 95985(c)(2) of the Cap-and-Trade Regulation (Regulation), ARB can investigate and invalidate issued compliance offset credits if the offset project activity and implementation of the offset project was not in accordance with all local, state, or national, environmental and health and safety regulations during the Reporting Period for which the compliance offset credit was issued.

Section 95985 of the Regulation establishes a process for ARB to investigate and invalidate issued compliance offset credits. Although ARB believes the greenhouse gas reductions represented by the offsets are real, quantified, and verified reductions, ARB has made an initial determination that compliance offset credits issued for ozone depleting substances destruction events that took place at the Clean Harbors Facility may be subject to invalidation pursuant to section 95985. In accordance with section 95985(d) of the Regulation, ARB has blocked transfers of the potentially invalid compliance offset credits until its investigation is completed and a final determination on whether to invalidate any of the compliance offset credits is made by the Executive Officer.

**Which compliance offset credits are under investigation?**

ARB is investigating compliance offset credits issued for ozone depleting substances destruction events that took place at the Clean Harbors Incineration Facility in El Dorado, Arkansas. The compliance offset credits under investigation were issued under 26 ARB offset projects. The projects under investigation are identified as "Under Review" on the ARB offset credit issuance website available at:

[http://www.arb.ca.gov/cc/capandtrade/offsets/issuance/arb\\_offset\\_credit\\_issuance\\_table.pdf](http://www.arb.ca.gov/cc/capandtrade/offsets/issuance/arb_offset_credit_issuance_table.pdf).

**At this time, ARB is making no judgment about the validity of the compliance offset credits under investigation. The offsets remain valid until the investigation is complete and the Executive Officer makes a final determination.**

**What happens to the compliance offset credits during the investigation?**

Per section 95985(d) of the Regulation, ARB must block transfers of the compliance offset credits under investigation until a final determination of invalidation is made. In order to block transfers during the period of review, ARB has temporarily transferred the compliance offset credits to an ARB jurisdictional account in the Compliance Instrument Tracking System Service (CITSS).

The transfer of the compliance offset credits issued for ozone depleting substances destruction at the Clean Harbors facility was made on May 29, 2014. ARB did not take ownership of the compliance offset credits. ARB placed the compliance offset credits in an account that prohibits the owner from transferring those compliance offset credits to another market participant while the investigation is pending.

Once the investigation is completed, all compliance offset credits determined to meet the requirements of the Regulation will be returned to the CITSS accounts of the respective owners.

**How were affected parties notified of the investigation?**

All Primary Account Representatives (PAR) and Alternate Account Representatives (AAR) for CITSS accounts were notified of the compliance offset credit investigation on May 29, 2014. All parties that held any compliance offset credits under review received a separate email notification on May 29, 2014, serving as the official notification of the compliance offset credit investigation under section 95985(f) of the Regulation. This

notification detailed the process by which ARB would transfer the compliance offset credits to an ARB jurisdictional account and outlined the investigation timeline.

**What is the timeline for the investigation?**

From May 29, 2014, holders of the compliance offset credits under investigation have 25 calendar days to provide additional information to assist ARB in the investigation. ARB may also request specific additional information to aid in the investigation. The Executive Officer has 30 calendar days from the day that all the information is received to make a final determination whether to invalidate any compliance offset credits under investigation.

**How will ARB keep affected parties aware of developments in the investigation?**

ARB will not comment on the investigation until the final determination has been made. All market participants will be notified of the final determination in a manner that ensures everyone gets the information at the same time.

**Does the investigation impact other compliance offset credits generated through the destruction of ozone depleting substances?**

Only the compliance offset credits issued for ozone depleting substances destruction events that took place at the Clean Harbors Incineration Facility in El Dorado, Arkansas are under investigation. All compliance offset credits recognized in the Cap-and-Trade Program are subject to rigorous oversight and verification. At this time, there is no additional investigation of compliance offset credits for other offset projects or protocols.

**Could the compliance offset credits under investigation be invalidated?**

Under section 95985(c)(2) of the Regulation, ARB can investigate and invalidate issued compliance offset credits if the offset project activity and implementation of the offset project was not in accordance with all local, state, or national, environmental and health and safety regulations during the Reporting Period for which the compliance offset credit was issued.

**What happens if the compliance offset credits under investigation are invalidated?**

All affected parties will be notified and the compliance offset credits under investigation will be removed permanently from CITSS. These compliance offset credits will no longer be valid and cannot be transferred to any other entity or used for compliance.

**What happens if the compliance offset credits under investigation are found to be valid?**

All affected parties will be notified and the compliance offset credits under investigation will be moved from the ARB jurisdictional account back to the CITSS account of the affected party from which they were originally transferred. The compliance offset credits can then be transferred and used for compliance in accordance with section 95956 of the Regulation.

**Is ARB issuing new compliance offset credits for ODS projects during the investigation?**

During the period of review, ARB is temporarily postponing the issuance of any new compliance offset credits associated with destruction events at the Clean Harbors facility. Once the review is completed, ARB will assess if new projects with destruction events at the Clean Harbors facility seeking issuance meet the requirements of the Cap-and-Trade Regulation and should be issued compliance offset credits. Offset project developers and holders of registry offset credits related to destruction events at this facility may continue to submit project documentation and requests for issuance to ARB for review with the understanding that there will be a delay in issuance of compliance offset credits until the current investigation concludes. ARB will continue to review and issue compliance offset credits for ODS projects that are not related to destruction events at the Clean Harbors facility.

Additional regulatory guidance about ARB's offset invalidation process can be found here:

<http://www.arb.ca.gov/cc/capandtrade/guidance/chapter6.pdf>