



February 25, 2008

The Honorable Barbara Boxer
United States Senate
Chairwoman
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Lieberman-Warner Climate Security Act of 2007 (S. 2191)

Dear Chairwoman Boxer:

The Carbon Offset Providers Coalition appreciates this opportunity to express its continuing support for the Lieberman-Warner Climate Security Act (S. 2191), as amended, as the full United States Senate prepares to consider the measure. The Coalition supports the amendments to the bill as reported out of the Environment and Public Works Committee, and proposes several additional adjustments, as outlined below, in order to further refine the bill such that America can achieve significant cuts in greenhouse gases quickly and at affordable cost.

The Carbon Offset Providers Coalition ("COPC" or "Coalition") is an alliance of the leading companies in the carbon offset market, including those involved in financing, producing, generating, providing, aggregating and/or marketing greenhouse gas emission reductions for sale as offsets in existing and emerging voluntary and compliance GHG emission trading markets. We offer the following comments based upon our members' experience operating within these markets, including the collective experience from hundreds of offset projects in nearly all 50 states here in the U.S. and abroad that have achieved millions of tons of greenhouse gas reduction.

The Coalition supports the Lieberman-Warner Climate Security Act, and in particular the bill's recognition of the vital role that offset projects will play in achieving the United States' goal of significant cuts in greenhouse gas emissions and liberating our nation from foreign oil. Economic analyses by the U.S. Environmental Protection Agency ("EPA") and others have shown that incentivizing a robust market in offset reductions (*i.e.*, emissions reductions from diverse sources outside a mandatory cap) can dramatically reduce the overall cost to American taxpayers and consumers of meeting the goals of global warming legislation. Indeed, without offsets, the cost of compliance could be over 2 1/2 times higher than with unrestricted use of

offsets.¹ Accordingly, offsets provide critical cost-containment and price stability by providing flexibility to covered industries to find the lowest available cost emissions reductions across a range of options. Greenhouse gas reductions opportunities are diverse and spread across the entire economy,² and offset trading is the best means to tap these opportunities and create real change by overcoming market barriers, investment needs and misaligned incentives.

Apart from providing cost-containment and price moderation, by energizing innovation and market forces, offset projects provide an essential bridge to a transformative low-carbon economy. Offset projects are already providing jobs and opportunity for the U.S. economy through a robust voluntary market. Such projects have provided important incentives and revenue to many corners of the economy, including family farmers and small businesses, and have already demonstrated their ability to bring about real, positive changes in the way America generates electricity (for example, renewable energy from wind, biomass, landfill gas and solar), grows crops (through advanced farming practices and manure management), and manufactures products (through cleaner, smarter industrial processes and pollution control). In addition to reducing carbon emissions, offsets have funded the development of commercially viable methods of sequestering carbon through tree planting, agricultural advances, and long-term storage in geologic formations.

Offsets also deliver important co-benefits over and beyond combating global warming, including reduction of conventional air pollutants, improved water quality, and energy security that improve the lives of all Americans. Many offset projects directly benefit disadvantaged urban and rural communities, such as urban tree canopy projects that reduce “heat island effect” and beautify our inner cities. In addition, offset projects can incentivize the development and adoption of new, low-carbon technology developed by American industry and research institutions, which may be exported to the rest of the world.

Finally, offsets provide critical flexibility to those heavy industry sectors covered under an emissions cap as they transition to a new carbon-constrained economy. If properly incentivized, offset projects are available to begin achieving greenhouse gas reductions immediately – giving regulated industry time to phase in new technology and capital investment while avoiding premature retirement of assets that could result in unnecessary economic hardship and avoidable environmental life-cycle costs.

In short, the potential of offset projects should be “unleashed” to help attain S. 2191’s goal of mitigating climate change and achieving America’s energy independence. While S. 2191, as currently drafted, generally allows offsets to make some degree of contribution, several provisions of the bill artificially constrict the effectiveness of the offset market or create ambiguities that may foreclose opportunities for cost-effective emission reductions. The COPC

¹ Source: U.S. EPA, Analysis of the Climate Stewardship and Innovation Act of 2007 (McCain-Lieberman, S. 280) (July 16, 2007); U.S. EPA, Analysis of the Low Carbon Economy Act of 2007 (Bingaman-Specter, S. 1766) (Jan. 15, 2008).

² See McKinsey & Company, Reducing U.S. Greenhouse Gas Emissions: How Much at What Cost, U.S. Greenhouse Gas Abatement Mapping Initiative (Dec. 2007).

respectfully offers the following recommendations for amendments to the Lieberman-Warner Climate Security Act.

1. Section 2402(a): Artificial Numerical Limits on Domestic Offsets. Section 2402(a) of S. 2191, as reported out of committee, would limit use of offset credits to 15% of a regulated company's compliance obligation. Because offsets are an essential cost-containment mechanism and offer real emission reductions of greenhouse gases, there is no logical reason to limit the ability of offset projects to deliver cost-effective reductions at lower overall cost to society. The COPC recognizes that offsets must maintain a high level of integrity, including third-party verification of all emission reductions. To this end, the bill provides a regulatory structure that will guarantee that certificates awarded to eligible offset projects represent real, verifiable, additional, permanent, and enforceable emission reductions equivalent on a ton-for-ton basis to internal reductions by covered industries.

Thus, there is no need – either theoretically or practically – to limit the beneficial use of offsets, and we recommend removing any quantitative limits from the bill. However, in recognition that some members of Congress have concerns about offsets, the COPC accepts that it may be necessary to include some restriction on the initial percentage use of offsets. Any such limit should be set sufficiently high so as to avoid handicapping the cap-and-trade program as a whole. At a minimum, the bill should allow covered facilities to use domestic offsets from projects in the United States for up to 50% of required reductions, where those offsets are of high integrity and can deliver cost-effective reductions at lower marginal cost.

Alternatively, a limitation on the amount of offset allowances can be tied to the number of compliance allowances distributed through the auction process (as set forth in the Table in Section 3102), which would give flexibility to covered industries that are forced to purchase allowances to choose to invest in cost-effective reductions outside their facility boundaries, such as wind power, biomass use, end-user energy efficiency, sequestration or other innovative approaches to greenhouse gas reduction.

Lastly, we recommend changing the term “entity,” which is not defined in the bill, to “facility,” which accords with the obligation placed by Section 1202 on “covered facilit[ies]” and with similar language in Section 2501 [relating to international offsets]. Alternatively, if the provision is intended to apply on an entity-wide basis (i.e., where an entity may own or operate multiple facilities), defining language should be provided.

- **COPC Proposal:** Amend Section 2402(a) to read: “Beginning with calendar year 2012, the owner or operator of a covered *facility* ~~entity~~ may satisfy up to 50 ~~15~~ percent of the total allowance submission requirement of the covered entity under section 1202(a) by submitting offset allowances generated in accordance with this subtitle.”
- **COPC Proposal:** Alternatively, amend Section 2402(a) to read: “Beginning with calendar year 2012, the owner or operator of a covered *facility* ~~entity~~ may satisfy up to a *percentage* ~~15 percent~~ of the total allowance submission requirement of the covered entity under section 1202(a) *equivalent to the percentage established for*

auction of emission allowances under Section 3102 by submitting offset allowances generated in accordance with this subtitle.”

2. **Section 2403(a): Exclusion of Avoided Fossil Fuels.** Section 2403(a) currently reads as follows (emphasis added):

Offset allowances from agricultural, forestry, and other land use-related projects shall be limited to those allowances achieving an offset of 1 or more greenhouse gases by a method other than a reduction of combustion of greenhouse gas-emitting fuel.

Section 2403(a) as drafted would prevent certain projects that reduce fossil fuel combustion (typically known as “avoided fuel” projects) from qualifying for the issuance of offset certificates. This restriction would deter beneficial projects from contributing to greenhouse gas reduction goals through the Subtitle D offset program, including many energy efficiency projects that reduce energy demand and thus avoid combustion of carbon-intensive (and often imported) fossil fuels. Such a restriction would also deter renewable energy projects that generate power from cleaner, lower carbon sources of energy, such as wind and solar, which are essential if America is to transform its energy economy. This provision also could be construed to disqualify projects with important environmental and social co-benefits such as “on farm” projects that generate electricity from animal wastes or biomass, or projects such as urban tree canopy planting initiatives that displace cooling loads on urban buildings and save energy, which are being developed in cooperation with environmental justice communities and urban sustainability efforts. These projects rely on financial incentives from the sale of offset credits, and may not be undertaken otherwise. The policy issues raised by this exclusion impact heavily on these critical innovations.

The concern with avoided fuel projects is an accounting issue that can be accommodated with proper structuring. Avoided fuel projects may be issued an offset certificate, without double counting or affecting the overall cap, as long as an adjustment is made to the sector cap or facility baseline of covered fossil fuel electric generators that benefit from the renewable energy production or reduced electrical demand. For example, an allowance could be deducted from the pool of allowances available for auction or allocation to covered electric generation units equivalent to each offset certificate issued for each ton of greenhouse gas reduction from an avoided fuel combustion project. Rather than the blunt approach of simply excluding an entire class of beneficial projects, making such accounting adjustments will properly incentivize avoided fuel projects to participate in the efficient market-driven cap-and-trade program. Without this accounting adjustment, a free rider situation is created in which conventional fossil fuel generators benefit, while alternative energy and efficiency projects struggle without sufficient incentives.

Incentivizing downstream fuel users to further reduce emissions by capturing offset revenue for avoided fuel combustion will create a beneficial “race” by downstream users to innovate and seize economic benefits of their own actions. This will drive innovation and emissions reductions faster than waiting for increased energy prices alone (a historically weak

driver) to lead to energy efficiency adoption, or waiting for upstream covered entities, utilities or public agencies to design and deploy ad hoc, top-down incentives. Although S. 2191 commendably casts a broad net to cover fuels and electricity upstream, excluding downstream projects that avoid fossil fuel use from the offset market would ironically remove an important incentive for innovation and rapid emission reduction.

Although it might be possible to provide direct monetary incentives for renewable energy and other such projects (in lieu of or in addition to offset certificates), the bill as currently drafted does not contain such incentives to the degree or scope that would be matched by an offset trading system. The Coalition encourages direct government investment and support of innovative technologies. However, such incentives are a complement to, not a substitute for, the market efficiencies created when all offset projects are eligible to compete in the marketplace for the lowest cost reductions. Set-aside programs are inherently limited in effectiveness unless the program is sufficiently funded and proper choices are made about which projects should receive funding. Put simply, America needs to take advantage of the millions of tons of real carbon reductions that can be provided by renewable energy, energy efficiency and other projects that avoid the combustion of fossil fuels – and it can best do this by using a market-based offsets trading system to direct investment to the most worthy projects, while at the same time providing direct incentives to emerging solutions in the form of set-asides or grants.

In sum, because Section 2403(a) undermines the structure of the cap-and-trade system and discourages many projects that can mitigate global warming, the exclusion of credit for avoided fossil fuel combustion ought to be reconsidered. The COPC would be pleased to work with decision makers to understand the practical ramifications of this issue and to identify workable design structures that will help transform America's energy economy.

- **COPC Proposal:** Although there are valid accounting concerns regarding issuing offset certificates for avoided fossil fuel emission reductions, the provision as drafted creates a structural problem within the cap-and-trade system, and handicaps renewable energy and energy efficiency improvements. The COPC therefore recommends deleting Section 2403(a).

3. Section 2403(b): Eligible Domestic Offset Project Types. Section 2403(b) specifies as eligible for offset certificates various project categories that are widely accepted as having clear greenhouse gas emission reduction benefits. The COPC supports this approach of expressly identifying projects that have been commercially proven in existing markets, including the U.S. voluntary market and international programs. The Coalition recommends the inclusion of several additional project categories that are on par with the categories already listed and that are ready to start delivering emission reductions today.

In order to encourage innovation and development of new technologies and approaches, the statutory provision should also make clear that the listing of projects is not intended to limit the universe of possible projects or foreclose any projects that can meet the standards set forth in the bill.

- **COPC Proposal:** Amend Section 2403(b)(4) by inserting the following:

“(4) subject to the requirements of this subtitle, any other terrestrial offset practices identified by the Administrator, including *but not limited to* –

 - (A) the capture or reduction of fugitive greenhouse gas emissions for which no covered facility is required under section 1202(a) to submit any emission allowances, offset allowances, or international emission allowances;
 - (B) methane capture and combustion at nonagricultural facilities;
 - (C) *methane recovery and destruction or utilization through anaerobic digestion or other processes from sources such as source-separated municipal solid waste, landfills, or municipal or commercial wastewater systems;*
 - (D) *methane capture and destruction or utilization at coal mines;*
 - (E) *carbon capture and geological sequestration;*
 - (F) *renewable energy projects,³ including wind, solar, biomass, synthetic gas from municipal or other solid waste, non-dam hydropower, geothermal, tidal and ocean wave power;*
 - (G) *energy efficiency projects, including waste gas/heat recovery, fuel switching or combined heat and power;*
 - (H) *industrial gas utilization or destruction;*
 - (I) *product reformulation or process improvements, such as at cement and other manufacturing plants;*
 - (J) *transportation improvements; and*
 - (K) ~~(C)~~ *other actions that result in the avoidance or reduction of greenhouse gas emissions in accordance with section 2402; and . . .”*

4. **Section 2403(b)(4): Terrestrial Offset Limitation.** Section 2403(b)(4) limits offsets to “terrestrial” practices, thus effectively excluding potential greenhouse gas reduction measures from ocean fertilization, atmospheric seeding, etc. Although some have raised concerns about the efficacy or environmental impacts of such approaches, there is no reason to rule out the potential global warming mitigation from such projects should they be proven scientifically to be beneficial and effective. Other provisions of S. 2191 set forth rigorous standards for review and accounting of offset projects that will ensure that concerns about particular projects or technologies will be addressed. For example, under Section 2410, the EPA may restrict projects that have adverse effects on human health or the environment.

- **COPC Proposal:** Amend Section 2403(b)(4) to read: “subject to the requirements of this subtitle, any other ~~terrestrial~~ offset practices identified by the Administrator.”

³ Inclusion of renewables and energy efficiency is subject to the above discussion regarding the need for accounting adjustments relating to avoided fossil fuel emission reductions.

5. **Section 2404(j): Exclusion of Agricultural Projects.** Section 2404(j) contains a provision reading: “Exclusion. – No activity for which any emission allowances are received under subtitle G of title III [Sections 3701-3703] shall generate offset allowances under this subtitle.” The cross-referenced sections relate to the 5% allowance set-aside for domestic agriculture and forestry projects under which the Department of Agriculture may distribute allowances (which will presumably be sold back to the trading market to generate cash revenue) to “entities that carry out projects on agricultural and forest land.” Read literally, this exclusion could be construed to foreclose any agriculture or forest offset project from selling offset credits in the cap-and-trade market, regardless of whether the project itself receives free allowances, as the exclusion could be mis-read to apply to agriculture activities as a class. We understand that the intention of this provision is to prohibit windfall profits by barring projects that receive a subsidy in the form of free allowances from also selling offset credits for those same tons of greenhouse gas reduction. However, as drafted, the provision could go beyond its apparent purpose and disqualify any project that received even a few allowances regardless if the project generated carbon reductions far beyond the number of allowances provided.

Such an exclusion would undermine the intent of the revenue-recycling provisions by disqualifying projects that receive even a small number of allowances as a financial incentive or grant. For example, the government may wish to incentivize methane capture at family-owned dairy farms by distributing a certain number of allowances to participating farmers. However, the project may capture far more methane than represented by the free allocations, but would be unable to monetize this additional greenhouse gas mitigation under the present statutory language; thus, this provision would handicap the government’s ability to leverage its own incentive programs. Accordingly, this provision should be adjusted to allow the proportional crediting of offsets to the extent that the project generates excess reductions above and beyond the incentive provided.

- **COPC Proposal:** Amend Section 2404(j) to read: “Exclusion. – No *project activity* for which any emission allowances are received under subtitle G of title III shall generate offset allowances under this subtitle *except to the extent such project generates greenhouse gas reductions or increases in sequestration in excess of the number of tons represented by the allowances distributed to that project under such subtitle.*”

6. **Section 2405: Annual Re-Evaluation of Offset Projects.** As currently drafted, Sections 2404 and 2405 of subtitle D of Title I establish a two-step approval process for offset projects. Section 2404 sets forth procedures for “project initiation and approval” under which projects undergo rigorous review of the proposed plan for reducing or sequestering greenhouse gases, including the methodology for quantifying and monitoring these reductions. Section 2405 outlines the process for verifying, after the project is built, that the project has achieved its reduction or sequestration goals and should be issued offset allowances.

The project initiation stage under Section 2404 requires an evaluation of baseline emissions, monitoring plans, additionality and other eligibility criteria, which makes perfect sense. However, Section 2405(b)(1) requires as part of the subsequent verification process not only a quantification of the project results, but also a post-hoc “subsequent analysis of the offset project” which appears to require a re-assessment of the same criteria that were evaluated, and approved, in the initiation process, including a re-examination of additionality, leakage and permanence. Section 2405(b)(2) similarly requires a post hoc “assessment of methods (and the appropriateness of those methods).” As written, these sections might be construed to require a full re-assessment and re-approval of each project, each year, such that projects that have already been approved through the Section 2404 initiation process might be disqualified in future years (i.e., before the end of the accounting period approved at project validation pursuant to Section 2404(d)(4)(B)).

This language creates a cumbersome process and potentially prohibitive level of risk for investments that require more than a one or two year project duration, which would dramatically limit the benefits of the offset program by discouraging long-term and large-scale investment. Other established greenhouse gas reduction programs, such as the Regional Greenhouse Gas Initiative, the Chicago Climate Exchange and the UNFCCC Clean Development Mechanism, provide for a “crediting period” of from several to ten years in which approved projects are verified according to the protocols in effect when they are approved, with re-evaluation and re-approval only at the beginning of the next investment period. There is an important difference between a “dynamic baseline,” which can correct for new data or project changes as the project advances, versus a full baseline re-evaluation every year, which adds nothing to the integrity of the project but unjustifiably increases uncertainty and transaction and administrative costs.

In sum, a re-assessment of core criteria would be redundant and add uncertainty and unnecessary transaction costs. The offset provisions properly require that projects be credited only for the emission reductions or sequestration that they actually achieve, but should be clarified so that there is no need to for full re-evaluation of the project methodology every year.

- COPC Proposal:** Amend Section 2405(b)(1) as follows: “(b) Offset Verification. – (1) Scope of Verification. – A verification report for an offset project shall – (A) be completed by a verifier accredited in accordance with paragraph (3) *pursuant to the accounting period approved pursuant to Section 2404(d)(4)(B)*; and (B) shall be developed taking into consideration – (i) the information and methodology contained within a monitoring and quantification plan; (ii) data *from and subsequent analysis of* the offset project, including – (I) quantification of net emission reductions or increases in sequestration; (II) ~~determination of additionality;~~ (III) ~~calculation of leakage;~~ (IV) assessment of permanence; (V) ~~discounting for uncertainty;~~ and (III) ~~(VI)~~ the adjustment of net emission reductions or increases in sequestration by *any the discounts required under the project methodology established under Section 2404 determined under clauses (II) through (V);* and . . .”

- **COPC Proposal:** Amend Section 2405(b)(2) as follows: “(2) Verification Report Requirements. – The Administrator shall specify the required components of a verification report, including – (A) the quantity of offsets generated; (B) the amount of discounts applied; (C) ~~an assessment of methods (and the appropriateness of those methods);~~ (D) an assessment of quantitative errors or omissions (and the effect of the errors or omissions on offsets); (D) ~~(E)~~ any potential conflicts of interest between a verifier and project developer; and (E) ~~(F)~~ any other provision that the Administrator considers to be necessary to achieve the purposes of this subtitle.”

7. **Section 2406(c): Project Reversals.** Accounting for, tracking, adjustment and liability for reversals of projects involving carbon sequestration raises various issues that need to be incorporated into the design of a cap-and-trade system. The COPC looks forward to working with decision makers to find workable solutions to these issues, including identifying an appropriate temporal end-point for reversal liability, the use of market mechanisms (such as insurance, pooled reserves, or clearinghouse) to address liability and the proper placement of liability so as to ensure that compliance goals are met while not interfering with market functions.

8. **Section 2408(b): Credits for Pre-Existing Projects.** Section 2408(b) allows, but does not mandate, that EPA recognize offset projects begun prior to the effective date of EPA offset audit regulations where those projects “satisfy the applicable requirements of this subtitle” (i.e., the standards to be developed by EPA). In order to recognize early actors that have voluntarily invested in low-carbon projects and technologies and to encourage continued investment prior to the effective date of EPA regulations, it is critical that investors and project developers are able to rely on a clear signal that existing projects will be fully credited. This is especially important given the multi-year planning horizon and investment time frame required to finance and build these projects. Similarly, investors that took early action to reduce greenhouse gases ought to be rewarded – rather than punished – for taking action while others sat idly by. Accordingly, recognition of pre-existing projects through the issuance of offset allowances for early greenhouse gas reductions projects should be mandatory, rather than left to agency choice at some later date.

Because EPA eligibility rules have not yet been written, pre-existing projects may not precisely meet procedural or other standards that will be developed in future regulations even though they may be fully consistent with the statutory criteria and of comparable environmental integrity. Accordingly, the bill should require EPA to recognize early-implemented offset projects that are consistent with the goals of the statute, even if those projects do not exactly meet the eventual regulations.

COPC Proposal: Amend Section 2408(b) to read: (b) Pre-Existing Projects. – (1) IN GENERAL.—The Administrator *shall* ~~may~~ allow for the transition into the Registry *and issuance of offset allowances under Section 2405(c)(2)* of offset

projects and banked offset allowances that, as of the effective date of regulations promulgated under section 2407(a), are registered under or meet the standards of The Climate Registry, the California *Climate Action Registry*, the *Environmental Resources Trust* GHG Registry, the Chicago Climate Exchange, the GHG CleanProjects Registry, the *Voluntary Carbon Standard Registry* or any other Federal, State, or private reporting programs or registries if the Administrator determines that such other offset projects and banked offset allowances under those other programs or registries *are consistent with* satisfy the applicable requirements of this subtitle.

9. Section 2410: Federal Review Requirements. In absence of an express provision to the contrary, it might be argued that approval of offsets under Section 2404 might be subject to the National Environmental Policy Act, Administrative Procedure Act, or other federal statutes which require study or review of federal actions, which would be duplicative of the review mandated under the offsets program created by Subtitle D, and would delay and complicate approvals of individual projects. Of course, the programmatic regulations promulgated under Section 2402(b) would be subject to public review and comment and agency consultation under relevant law, thus making further duplicative review unnecessary.

- **COPC Proposal:** Amend Section 2410 to add a new subsection (d) as follows:
“(d) Notwithstanding any other provision herein, no action of the Administrator with regard to the issuance and certification of offset allowances under this subtitle shall be subject to the National Environmental Policy Act, the Endangered Species Act, the Administrative Procedure Act, or other federal requirement; provided, however, that nothing herein shall relieve an offset project from obtaining all federal, state and local approvals otherwise required under other law.”

10. Section 2412: Retail Carbon Offsets. New Section 2412, which was added in committee mark-up, requires EPA to develop regulations for retail carbon offsets under the existing Energy Star certification program. However, this program has a different and more limited purpose – promoting energy efficiency in retail products – and it is not clear the Energy Star program is suitable for retail carbon offsets sales. In addition, certification programs are already being developed on an industry consensus standard basis, such as through the Green-e program administered by the Center for Resource Solutions or voluntary standards developed under the Voluntary Carbon Standard (“VCS”). Moreover, the Federal Trade Commission, whose mission includes consumer protection in the area of “green” marketing claims, is currently in the process of reviewing its “Green Guides” (Guides for the Use of Environmental Marketing Claims at 16 C.F.R. Part 260) to address carbon offsets and similar climate change related products or claims.

To the extent that S. 2191 will address non-compliance offsets, decision makers should keep in mind that any certification program must be careful not to stifle new approaches to

developing the retail voluntary offset sector. The voluntary sector is a valuable testing ground for methodologies and approaches which respond to consumer demand and may eventually be suitable for inclusion in a future cap and trade program. Similarly, many small scale projects may be technically eligible to be brought into the cap-and-trade program, but due to a variety of reasons (such as cost, technology, uncertainty) may not be appropriate and may be more suited to selling to retail buyers that are willing to pay a higher price for offsets with other attributes.

The focus of regulation of the voluntary retail carbon offset sector should be on consumer protection, but should not attempt to define for consumers what they want or can have, and should not chill innovation and experimentation. Accordingly, the COPC suggests that the bill not address retail offsets.

- **COPC Proposal:** Delete Section 2412 as duplicative of other efforts.

11. Subtitle E of Title II: International Credits. Subtitle E (Sections 2501-2503) allows the use of international “emission allowances obtained on a foreign greenhouse gas emissions trading market” if EPA certifies the market as comparable to the U.S. compliance market. Section 6006 [the International Reserve Allowance Program] references, but does not define, “international offset projects.” It is unclear whether the bill intends to recognize Certified Emissions Reductions (“CERs”) generated under the Kyoto Protocol’s Clean Development Mechanism as the equivalent of a foreign allowance. Because international credits, such as CERs, represent true global reductions of greenhouse gases and must satisfy rigorous standards for integrity and verification, there is no reason to exclude these projects, provided the Administrator certifies that the review standards are at least as stringent as standards established for U.S. reductions. Furthermore, restricting the use of international credits may put overseas operations of American companies at a competitive disadvantage to the competitors established in markets which allow international credits to meet emissions obligations. Under these markets, firms may reduce emissions wherever it is cost-effective to do so, and may use those emission reductions to satisfy part of their domestic obligation(s).

Ideally, the United States should link to markets throughout the world in order to minimize the costs of attaining global warming goals, maximize trade opportunities, and promote clean, sustainable development in deserving developing countries. There is wide stakeholder support for such a global market.

Accordingly, the bill should clarify that any form of legitimate carbon reduction can be traded, whether international offsets, national allowances, CDM credits or similar instruments.

12. Section 2501: Artificial Numerical Limits on International Credits. As with domestic offsets in Section 2402(a), the bill as currently drafted arbitrarily limits use of international credits to 15% of a covered facility’s compliance obligation. Because offsets, whether domestic or international, are an essential cost-containment mechanism and reduce the cost to all Americans of mitigating climate change, there is no logical reason to limit the ability

of offset projects to deliver cost-effective reductions of greenhouse gases, and there is no reason to make the fight against global warming more costly than necessary. Again, although there is no logical justification for a numerical restriction, the COPC recognizes that politics may require some level of restriction; however, that level should be sufficiently high so that international offset trading can reduce costs within the U.S. compliance system, moderate price volatility within the U.S., and empower U.S. companies to invest in overseas emission reduction projects.

- **COPC Proposal:** Amend Section 2501 to read: “The owner or operator of a covered facility may satisfy up to ~~30~~ 45 percent of the allowance submission requirement of the covered facility under section 1202(a) by submitting emission allowances obtained on a foreign greenhouse gas emissions trading market, on the condition that the Administrator has certified the market in accordance with the regulations promulgated pursuant to section 2502(a).”

13. Section 3201: Early Action Credits. Section 3201 provides a set-aside of allowances for early actors that voluntarily reduced greenhouse gas emissions after 1994. Rewarding those companies that acted early to mitigate global warming is a critically important and salutary policy. However, the bill largely leaves to EPA the decision of how to allocate credits, what projects will be credited as “verified and credible,” and if there are fewer allowances available than qualified applicants, how to make preferential or partial allocations. In order to encourage continued investment in “early action” emission reductions and positive changes in behavior at emitting facilities, the bill should provide greater certainty to investors that each ton of emissions reduction will be fully credited on a ton-for-ton basis. Alternatively, the bill should establish precise standards for crediting, such that businesses can accurately anticipate the value of reductions.

COPC Proposal: Clarify the standards and method of distribution of early-action allowances in Section 3201.

14. Section 3601: Carbon Capture and Sequestration. Subtitle F of Title III addresses Bonus Allowances for Carbon Capture and Geological Sequestration. We appreciate that S. 2191 recognizes the greenhouse gas emission reduction potential of carbon capture and sequestration (“CCS”). This is consistent with the international scientific consensus, as the Intergovernmental Panel on Climate Change released a special report on CCS in September 2005 that supported the mitigation potential of CCS. CCS is a reality today for all industrial sources of carbon dioxide. Millions of tons of industrial vent stack sourced CO₂ are being transported and sequestered in the United States annually, and have been for several years. While we applaud S. 2191’s recognition of the potential for CCS by providing bonus allowances for all covered emissions sources, we respectfully submit that S. 2191 should be amended so that proven CCS technology in use today can be further utilized to capture and permanently sequester many more anthropogenic sources of CO₂. We have several specific proposals.

First, as noted in Section 3 above, we recommend that CCS be specifically identified as an eligible offset project in Subtitle D of Title II regarding offsets, in recognition of the extensive contribution to greenhouse gas reductions that can be made by geologic sequestration projects from any source of carbon dioxide.

Second, consistent with our comments in Section 8 above with respect to Section 2408(b) regarding credit for pre-existing projects, we recommend that the recognition of CCS not be limited to those projects that begin in 2008. Those that acted early to mitigate greenhouse gas emissions with CCS should not be penalized merely because their work may not be well-known. If there is to be more investment in these successful emission reduction technologies, a clear signal should be sent that these investments will be credited. This is especially true in the area of CCS, which is more capital intensive and requires a longer investment timeframe than some other offset technologies.

Third, the bill as drafted might be construed as limiting carbon sequestration projects qualified under Subtitle F to units “at a covered facility” that are not electric generation units. This would have the unintended effect of excluding many opportunities for emission reductions at non-covered facilities such as cement or chemical plants.

Finally, the bill establishes a performance test for electrical generation units by means of a bonus allowance adjustment ratio in Section 3603(b), but the language as drafted would inadvertently apply such a ratio (which is expressed in units of pounds per megawatt-hours) to eligible facilities that are not electricity generating facilities.

- **COPC Proposal:** Amend the latter part of Section 2403(b)(4) by inserting CCS as follows:
 “(C) *carbon capture and geological sequestration*; and
 (D) ~~(C)~~ other actions that result in the avoidance or reduction of greenhouse gas emissions in accordance with section 2402; and . . .”
- **COPC Proposal:** Amend Section 3602(b)(3) to read: “(3) have begun operation during the period beginning on January 1, 2001-2008, and ending on December 31, 2035.”
- **COPC Proposal:** Amend Section 3602(c)(4) to read: “(4) For any unit at a covered *or non-covered facility* that is not an electric generation unit, an annual emissions rate that is achieved by the capture and sequestration of a minimum of 85 percent of the total carbon dioxide emissions produced by the unit.”
- **COPC Proposal:** Amend Section 3603(b)(1) to read: “(1) the factor shall be equal to 1 *in the case of a qualified unit described in Section 3602(c)(4), or* in the case of a project that qualifies under section 3602(c)(1) during the first 4 years that emissions allowances are distributed to the project.”

15. Section 6006: Use of Domestic Offsets in International Reserve Program.

Under the International Reserve Allowance Program set out in Section 6006 of the bill, importers of certain goods must submit international reserve allowances, or in lieu thereof, foreign cap-and-trade allowances or international credits under subtitle E of title II – but Section 6006 does not expressly allow the use of domestic offset allowances. The goals of the importer requirement for goods can be served equally well by providing an option for importers to purchase and submit domestic offset allowances from projects approved under subtitle D of title II. Including domestic offsets as a compliance option would provide more flexibility to the importer program, would potentially lower the price of goods for consumers, and would provide additional market opportunities and important incentives for U.S.-based emission reductions that will complement the overall goal of the bill to lower global greenhouse gas concentrations.

- **COPC Proposal:** Amend Section 6006(e)(2)(A) to read: “A United States importer may submit, in lieu of an international reserve allowance issued under this section, *a domestic offset allowance under subtitle D of title II or a foreign allowance or similar compliance instrument distributed by a foreign country pursuant to a cap and trade program that represents a comparable action.*”

16. Section 4(20): Internal Reductions As Offsets At Covered Facilities. Because S. 2191 elects to regulate certain fuels upstream rather than placing compliance obligations at the point of combustion, there is currently no compliance obligation for direct “smokestack” emissions at certain fuel-producing facilities, yet under the current definition of “Offset Allowance,” such facilities would have no incentive to make voluntary internal emissions reductions, and ironically would miss many potentially low cost reductions from major emitting facilities. A simple change to the definition would correct this apparent paradox.

- **COPC Proposal:** Amend Section 4(20) to read: “Offset Allowance. – The term “offset allowance” means a unit of reduction in the quantity of emissions or an increase in sequestration equal to 1 carbon dioxide equivalent at an entity that is not a covered facility, *or at a covered facility with respect to emissions not subject to the submission requirements under Section 1202*, where the reduction in emissions or increase in sequestration is eligible to be used as an additional means of compliance for the submission requirements established under section 1202.”

Thank you again for this opportunity to express our support for S. 2191. The Carbon Offset Providers Coalition would be pleased to provide further information upon request.

Sincerely,



Roger Williams, Chairman
CARBON OFFSET PROVIDERS COALITION⁴

cc: Hon. Harry Reid, Senate Majority Leader
Hon. Mitch McConnell, Senate Minority Leader
Hon. James Inhofe, Ranking Member, Senate Committee on Environment and Public Works
Hon. Joseph Lieberman, Chair, Senate Committee on Environment and Public Works
Subcommittee on Private Sector and Consumer Solutions to Global Warming and
Wildlife Protection
Hon. John Warner, Ranking Member, Senate Committee on Environment and Public
Works Subcommittee on Private Sector and Consumer Solutions to Global
Warming and Wildlife Protection
Members of the United States Senate
Hon. Nancy Pelosi, Speaker of the House of Representatives
Hon. John Dingell, Chair, House Energy and Commerce Committee
Hon. Joe Barton, Ranking Member, House Energy and Commerce Committee
Hon. Rick Boucher, Chair, House Energy and Commerce Committee Subcommittee on
Energy and Air Quality
Hon. Fred Upton, Ranking Member, House Energy and Commerce Committee Subcommittee
on Energy and Air Quality
Hon. Henry Waxman, Chair, House Oversight and Government Reform Committee
Hon. Tom Davis, Ranking Member, House Oversight and Government Reform Committee
Hon. Ed Markey, Chair, House Select Committee on Energy Independence and Global
Warming
Hon. James Sensenbrenner, Ranking Member, House Select Committee on Energy
Independence and Global Warming

⁴ The members of the Coalition include the following companies: Blue Source, LLC; The CarbonNeutral Company; Camco International Group, Inc.; Commonwealth Resource Management Corp.; Environmental Credit Corp.; GE AES Greenhouse Gas Services; Kolibri Group; and MGM International. More information is available at www.carbonoffsetproviders.org.