

August 2, 2011

Dear California Air Resources Board,

We are writing to provide comments during the 15-day comment period for Subchapter 10 Climate Change, Article 5, Sections 95800 to 96022, Title 17 of the California Code of Regulations (July 2011)-- California Cap On Greenhouse Gas Emissions And Market-Based Compliance Mechanisms. We thank you in advance for this opportunity and we look forward to a smooth transition from the voluntary market structure to the proposed regulatory framework.

As a Climate Action Reserve-accredited verification body, SCS has found itself in a unique position regarding verifications under the Forest Project Protocols since 2007, providing verification services for all of the currently registered forest projects under this standard. We would like to share some observations and comments based on our extensive experience working with clients, standards bodies, and the accreditation body, the American National Standards Institute (ANSI) in the realm of forest carbon projects.

The Three Percent Offset Material Misstatement for Early Action Projects

1. This materiality threshold should be better defined. The stated "offset material misstatement of three percent or more" should be defined relative to what is being compared. This could be three percent of a verifier's measurement of a sample of forest plots to the original verifier's sample of the same forest plots or three percent of the originally verified CRT assertion to the second verifier's CRT assertion.
2. In the case of the latter scenario where the material threshold is defined as a greater than three percent difference between the originally verified CRT assertion and the second verifier's CRT assertion, this approach may not be consistent with the principles of verification. A key concept of verification, as outlined in the ISO 14064-3 standard, is a risk-based approach to verification. This concept requires the verifier to look at areas of high risk within the project to determine if there is an error, omission or misrepresentation in the greenhouse gas assertion.

In the case of a forest project, areas of scrutiny include the baseline determination, quantification procedures, the field inventory methodology, etc. As such, and unless stated as a standard requirement or as a component of materiality, an ANSI-accredited verification body will check or re-compute only a subset of the calculations associated with a forest carbon project. This laborious task of a complete duplication of all of the project developer's calculations would not be in line with the risk-based approach; as well, it would dramatically increase the time and expense of verification. For those reasons, CAR chose the risk-based approach as the framework for the verification process. To this point in time, neither CAR nor any other widely used voluntary carbon standard and methodology such as VCS, has incorporated a materiality requirement such as that proposed by ARB-- to assess a three percent

offset material misstatement (or any quantitative percentage) of the total CRT assertion. Were ARB to incorporate a fundamentally different materiality requirement, the efficient transfer of Early Action Projects into the ARB's compliance system will be substantially hampered.

3. The three percent metric used to assess the materiality of the Early Action Project is simply not compatible with the current Climate Action Reserve Verification Project Manual or earlier CCAR/CAR Verification standards. The current materiality threshold for the Climate Action Reserve to evaluate offset projects such as landfill and livestock but not forest carbon offset projects is 5%. This value is also consistent with the California Climate Action Registry General Verification Protocol, Version 2.2 which relates to GHG inventory accounting that was in effect when the first forest carbon project was being assessed under the Reserve protocols in 2007.
4. It is difficult to assign a materiality threshold retroactively. Should the original verification not meet this threshold, this threshold leaves little recourse for the original verification body. They have no opportunity to amend their original verification activities given this newly determined materiality threshold. Had the stated requirements of the standard/regulation and accompanying materiality threshold been known during the course of the original verification, the verification body would have developed their risk-based verification design accordingly.
5. The materiality threshold stated in the regulation is 5% for overstatements but not understatements of CRTs. The materiality threshold for the assessment of Early Action Projects is 3% and makes no distinction between overstatements or understatements of CRTs. This difference is not justified in the regulation, nor do we believe it is warranted.

Assessment of Conformance to the Standard

6. For the assessment of Early Action Projects, the ARB could choose to follow the lead of the Public Resources Code which requires an independent review of appraisals on conservation lands. We have spoken with Chris Kelly, California Program Director of The Conservation Fund and agree with his proposal to assess Early Action Projects under the standards established by the protocol used during the verification. In many cases, the selected protocol for forest carbon early action projects would be the Climate Action Reserve Forest Project Protocol, Version 2.1.¹

¹ 5096.511. Prior to any action by an acquisition agency to approve a major acquisition of conservation lands, the acquisition agency shall contract for at least one independent appraisal of the fair market value of the land. The appraisal shall be conducted by a qualified member of the Appraisal Institute who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code. The appraisal shall be prepared pursuant to the Uniform Standards of Professional Appraisal Practice.

5096.512.

(a) The appraisal prepared pursuant to Section 5096.511 shall be reviewed by a qualified independent appraiser retained by the acquisition agency for this purpose, and who meets the following conditions: (1) The review appraiser did not conduct the appraisal pursuant to Section 5096.511 and has no financial interest in the major acquisition. (2) The review appraiser is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code.

(b) The review appraiser shall review the appraisal and prepare an appraisal review report that does all of the following: (1) Summarizes the appraisal. (2) States the basis on which the value of the land was established. (3) Describes the standards used to prepare the appraisal. (4) Determines whether or not the appraisal meets the standards established under the Uniform Standards of Professional Appraisal Practice.

Should this precedent be followed, it is important to note that the materiality threshold in the Forest Project Protocol, Version 2.1 is different than the previously discussed three percent material misstatement proposed by the Air Resources Board draft regulation.

The Forest Project Protocol, Version 2.1 does not have a materiality threshold; rather, it incorporates a Minimum Quality Standard, which considers two criteria: 1) the 15% difference between the verifier's inventory data and the forest owner's from a subsample of plots and 2) if there is a 10% difference between the projected activity line and the actual activity line.

Should the requirements of the originally verified protocol be followed, these two requirements would be considered the metrics for evaluating material misstatements.

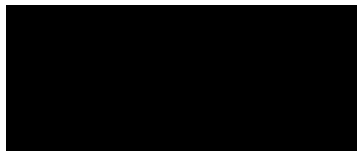
Other Considerations

7. At the time of verification of the first forest carbon offset projects, the Climate Action Reserve Forest Project Protocols were not accredited under the American National Standards Institute.

8. Since the FPP, Version 2.1 was not an ANSI-accredited standard and no Project Design Document (PDD) was required, the limited extent of project documentation and transparency for the Offset Project Data Assessment will likely present many challenges in, years later, conducting an ex post facto materiality test as presently proposed by ARB. Many of the discussions related to computations and spreadsheets were conducted in person and were not well-documented. The cases where the original project developers are no longer involved in the project (e.g., John Nickerson for the van Eck Forest Project) may also present challenges.

Thank you once again for this opportunity to share these comments and observations with you. We are available for any follow-up questions that you may have.

Best regards,



Robert J. Hrubes
SCS Senior Vice President

A handwritten signature in cursive script that reads "Christie Pollet-Young".

Christie Pollet-Young
GHG Senior Verification Forester