



C A L I F O R N I A R I C E C O M M I S S I O N

January 13, 2010

Mr. Kevin Kennedy, Chief
Program Evaluation Branch
Office of Climate Change
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Subject: Comments on Cap-and-Trade Preliminary Draft Regulation

Dear Mr. Kennedy:

We are writing to provide comments on the Preliminary Draft Regulation for a Cap-and-Trade Program (PDR). These comments are submitted on behalf of the 2,500 California rice growers that produce premium-quality rice on approximately 500,000 acres. About 95 percent of these acres are located in the Sacramento Valley. In addition to rice production, our fields provide critical habitat for 230 species of wildlife, including millions of migrating waterfowl and shorebirds along the Pacific Flyway.

The California Rice Commission (CRC) appreciates the opportunity to work with your staff during the development of the Cap-and-Trade Program, particularly as it considers provisions for offset generation and the use of offsets as compliance instruments. CRC, in collaboration with the Environmental Defense Fund (EDF), is working to develop a viable program for our growers to provide compliance offsets generated from the application of voluntary practices in rice fields.

As background, we would like to provide a brief overview of our cooperative efforts with EDF. With funding from the Natural Resources Conservation Service's Conservation Innovation Grants program, CRC and EDF are cooperatively working to identify, refine, and develop innovative practices and technologies that reduce greenhouse gas (GHG) emissions or otherwise sequester carbon on rice farms in California. Through this project, a model-based accounting tool for California rice systems has been developed. It has been calibrated and validated. Much of this work has been conducted by Dr. William Salas of Applied GeoSolutions, LLC. Additional technical support and research is being conducted by experts at the University of California, Davis.

Field measurements of rice yields, fertilizer use, water management and GHG emissions were collected in the 2008 and 2009 growing seasons and were used to evaluate the accuracy and performance of the modeling tool. The model can now be

used to quantify how changes in field management practices may impact GHG emissions and crop yields. This project offers the potential to test both voluntary on-the-ground GHG emission reduction strategies and the associated emissions accounting systems that would facilitate the rice industry's participation in any future offset trading programs.

Specific Comments on Existing Text and Concepts in the PDR

1. Use of Modeling for Offset Verification (related to section 96240, pp 62-63)

CRC supports requirements to verify offsets used for compliance purposes. However, we believe it is critically important to clarify that verification can be achieved through computer modeling techniques demonstrated to adequately estimate reductions resulting from performance-based practices in the field. This is exceptionally important in many agricultural settings where the amount of reductions per acre will be relatively small, thus making ongoing verification through intensive monitoring equipment cost-prohibitive. We believe that for the agricultural landscape, if the application of validated process-based modeling calculations is not allowed, viable projects that could achieve reductions will not be realized.

Suggested language: *The ARB will give strong consideration to the use of process-based models for the quantification and verification of offsets. Such appropriate models shall be validated with the use of actual measurements of GHG emissions from the types of sources to which proposed offset projects will be applied. Data on model uncertainty shall be provided and if the offset uncertainty is greater than five percent, offsets issued based on such a model will be discounted by the calculated uncertainty of the model.*

2. Crediting Periods (related to section 96240, pp 65-66)

CRC is disappointed to learn that staff is considering a maximum crediting period for non-sequestration type projects of 10 years. We believe that this proposal would prove to be a strong deterrent to projects requiring significant upfront investment in order to develop viable practices that will result in modest emission reductions. This is likely to be the case on agricultural lands where the "per-acre" level of reduction will be relatively small compared to the upfront research and development costs. For example, over one million dollars in private and federal funds is being invested to look at potential projects in rice that may only yield a few dollars (\$10-\$25) per acre in potential offset value. CRC requests that this crediting period be significantly increased to send a strong signal that investment in offset generation research and development efforts can make economic sense.

Suggested language: *The crediting period must be no fewer than 10 and no greater than 30 years for any project type.*

3. Credit Ownership on Agricultural Projects (related to section 96380, p. 75)

It is important to note that a significant portion of land in rice and other agriculture is rented out to tenant farmers. Since most opportunities to generate offsets from agricultural lands relate to specific techniques or practices employed by farmers, we believe that a program that issues the credit to farmers, independent of land ownership, would be more sensible and more widely embraced. If a farmer cannot directly benefit from beneficial management activities, he/she would be unlikely to go through the effort to participate in a program.

Since the PDR seems to leave this issue somewhat silent, we just wanted to raise the question of whether more detail is needed. If so, we offer the following suggested language.

Suggested language: *For offset projects undertaken by offset project developers on land that is leased, nothing in this regulation would prevent the offset project developer leasing the land to become the owner of the credit, unless expressly prohibited by the terms of the lease.*

4. Enforceability (related to section 96240, pp 65-66)

We agree that ARB needs to consider enforcement penalties for falsifying actions and claims in an offsets program. We only recommend that the extent of such penalties are not an excessive deterrent to wide-scale participation in offset generation activities in situations where the potential economic benefit of participation will be very low—such as with farmland projects. Farmers with relatively low to modest emission reduction opportunities are simply not going to participate if they sense any exposure to excessive penalties if something were to go wrong with their projects. ARB should encourage participation through a thoughtful proposal on this issue.

Suggested language: *Only if an offset project developer is proven to have falsified verification activities or associated documents will ARB consider penalties beyond reversal of the offset credits in question.*

5. Cap on Offsets Percentage for Compliance (related to section 96220, p. 61)

CRC strongly believes that any cap on the ability for offsets to be used as compliance instruments is unnecessary and will have no impact on the State's ability to reach its mandated reduction goals outlined by the Scoping Plan. We further believe that projects meeting your proposed criteria for qualification as offsets will be self-limiting. Limiting these offset options to four percent will have a devastating impact on the willingness of certain industry sectors, such as

agriculture, to invest resources to develop practices. If more significant incentives were in place, the environment would benefit because more offset-generating actions would take place and many of those offsets would be held for some period of time until the offset project developer executed a transaction. If any cap must be considered, CRC highly recommends a limit substantially higher than four percent.

Suggested language options: *There is no cap on the number of offsets that any covered entity may use to meet their compliance obligations. -- OR -- No covered entity shall use more than 49 percent offsets to meet mandated emission reductions.*

6. Public or Government Grant Projects (related to section 96240, p. 64)

The PDR expressly prohibits projects funded by “public or government grants” from qualifying for offsets. We do not understand why this provision is necessary. Regardless of the source of funding of a project, if a GHG emissions reduction occurred and all other tests are met, the activity has contributed to the emission reduction goals of AB 32 and should be creditable.

Suggested language: *Even projects funded by public or government grants should be eligible for offset credits, assuming all other tests are met, unless expressly prohibited by the terms of the agency/organization funding the project.*

7. Regions for Offset Credit Generation (related to section 96260, pp. 66-67)

ARB is seeking input on whether stakeholders believe that offsets should be issued only in California or should include areas outside of California. It is our position that, at least initially, offset credit issuance should remain in California. This seems most appropriate, given the extent of the economic impact on California companies from AB 32. Keeping offset revenue within the State for some number of years would tend to lessen the overall statewide impacts to some degree.

Suggested language: *For the foreseeable future, ARB restricts the purchase of offsets to projects implemented in California. ARB commits to evaluating the supply of viable offset projects within the State by [date X] to determine if any changes are needed to promote an adequate supply of offsets to the market place.*

New Concept Proposal for an Industry-wide Offset Generation System

Now I would like to propose a new concept for ARB’s consideration that CRC feels would prove essential for reasonable quantification and verification of offset projects in agricultural landscapes. It entails using computer-based modeling to quantify emission reductions realized across large blocks of acres that apply a common practice across the landscape.

If farmers are going to participate, we need a streamlined and cost-effective method to estimate average reductions per acre across large landscapes with subtle differences in soil types or rainfall, for example. These variations can obviously affect emissions from one farm to the next. However, if we view the landscape for a common GHG-reducing practice on a common crop type more regionally, we can generate "average industry-wide reductions" on a per-acre basis. This will lessen the cost yet estimate the collective emissions from common practices with a good degree of accuracy. Adjustments in the amount of offset credit issued could be made to account for uncertainty and ensure that the sum of all offsets issued would not exceed the actual cumulative industry-wide GHG reductions.

The concept described is probably best illustrated with an example. California has approximately 500,000 acres of rice split between about 1,000 different farms. CRC now has a specialized version of the Denitrification-Decomposition Model that allows us to input, down to a fairly small scale, variables such as soil types, rainfall, etc. The model has been evaluated against real GHG field measurements and is performing well. Therefore, we can now calculate, within a certain confidence interval, the emissions response to certain practices if applied across all 500,000 acres. However, placing the burden of characterizing all of these factors and/or monitoring emissions upon each individual farmer would be very cost-prohibitive and a major disincentive to large-scale participation. This is why we need a streamlined process to allow for uniform, equal offset credit to be issued to each farmer who implements an approved practice across that landscape.

Suggested general conceptual language: *For common offset projects across large land areas of 25,000 acres or more, ARB will consider approaches to issue industry-wide average credits, on a per acre basis, to participants of a coordinated industry-wide effort to reduce GHG emissions. Such industry-wide projects shall demonstrate, through technically-sound mathematical and statistical principles, that the sum total of all offsets issued will not exceed the cumulative GHG reductions achieved by the industry-wide effort.*

We appreciate your consideration of our comments and respectfully request that they be fully incorporated into staff's next proposal for the design of offset provisions. Please feel free to contact me at (916) 387-2264 if you have any questions. I also would be happy to bring in experts who could help explain and demonstrate the new concept I have described.

Sincerely,



Paul Buttner
Manager of Environmental Affairs