Climate Action Reserve Comments to ARB on Forest Compliance Offset Protocol Proposed Updates and the Proposed Rice Cultivation Compliance Offset Protocol

Date: December 12, 2014

The Climate Action Reserve respectfully submits the following comments and suggestions regarding the October 2014 proposed updates to the U.S. Forest Project Compliance Offset Protocol, as well as the proposed Rice Cultivation Project Compliance Offset Protocol.

U.S. Forest Project Compliance Offset Protocol

Expansion of Protocol Eligibility to Parts of Alaska

The Reserve supports the expanded protocol eligibility to those parts of Alaska that have the necessary FIA data to create the 'Common Practice' estimate used for Improved Forest Management baselines. This is an important progression of the protocol which enables Alaskan landowners to factor the value of California's carbon market into their management decision-making.

Common Practice Updates

The Reserve recognizes the need to periodically update the values used for Common Practice in order to accurately reflect actual conditions. Furthermore, we support further standardization of the process, particularly involving site class allocations, which will have the long-term benefit of improved transparency. We recommend that a notification be circulated at least a year in advance of any future updates, since Common Practice values are critically important to evaluating the financial elements of a prospective project and making investment and development decisions. Additionally, we recommend that the notification of updates to Common Practice be accompanied with clear timelines for how long prospective project developers may continue to use previous Common Practice values.

Even-aged Management Revisions

The update to the even-aged language in the protocol includes both some important clarifying language and some policy updates. The Reserve is supportive of the clarifying language, which aligns the even age area limitations in the protocol (40 acres) to even age rotational harvests that have occurred since the project commencement date and provides a verifiable definition to the term 'even-aged management." The Reserve recommends additional analysis and the engagement of stakeholders to further consider the policy language, which defines increased spatial and temporal buffers for even-aged harvest units.

The clarification that even-aged area limitations apply only to harvest units that have occurred since project commencement is welcome, as the Reserve feels this was the original intent of these limitations. The Reserve has worked with the Air Resources Board to clarify this intent on projects where verifiers have questioned whether a project with mature, even-aged forest stands in excess of 40 acres that were initiated naturally, or through silvicultural activities prior to the project commencement, would be in compliance with the protocol. The Reserve believes the updated language appropriately addresses this concern.

The Reserve also generally supports the provision of a definition for the term 'even-aged management.' The term does not have a universally understood definition, particularly with objective and verifiable terms. The provision of a verifiable definition will serve to avoid unnecessary delays and costs associated with verification challenges. The proposed language uses 50 square feet of basal area harvest retention as a threshold criterion in defining harvested stands that are even-aged in nature or uneven-aged in nature. The Reserve understands the nexus between the 50-square foot threshold and the California Forest Practice Rules where, under certain conditions, 50-square feet of harvest retention represents the lowest retention level not subject to harvest area constraints. The Reserve supports this definition for application in California and states with similar forest types, but also recommends that the Air Resources Board perform additional analysis and stakeholder consultation to determine if the 50-square foot retention threshold is an appropriate dividing line between even-aged management and uneven-aged management throughout the United States.

Within these generally helpful clarifications, however, the proposed protocol update includes provisions that seem to reflect an unstated policy objective to further disperse the implementation of even-aged rotations and increase the time before stands adjacent to even-aged harvests can be harvested. Whatever the merits of these changes, they could have significant implications for how projects are managed. Where updates to the protocol introduce new policy objectives, the Reserve believes the Air Resources Board should clearly define the objectives and undertake a deliberate consultation process to ensure that they are met while limiting unintended consequences.

The current protocol has limitations to the implementation of even-aged harvests 'adjacent' to recent even aged harvests. However, the term 'adjacent' lacks verifiable terms and is ripe for verification disputes. In discussions the Reserve has had with verifiers, debate has arisen whether a linear strip of trees in an otherwise even-aged harvest unit in excess of the 40-acre limit would be sufficient to comply with the even age area limitations. Clearly, additional definition is needed to clarify this issue. The Reserve believes that it is appropriate to work toward verifiable terms for creating adjacency buffers that meet the intent of the protocol. In this case, the clarifying solution is in excess of the California Practice Rules. As such, the policy objectives associated with this update need definition and subsequent analysis and stakeholder input.

The protocol currently has language in verifiable terms that specifies the condition a recently harvested even-age unit must be in before an adjacent stand can be harvested with even-aged management. The draft language links the temporal delay in harvesting adjacent stands to the definition of an even-age harvest unit being proposed (less than 50 square feet). While establishing uniformity in the verification

criteria has some merit, achieving 50 square feet of basal area on a recently harvested stand would require considerably more time than requirements in the California Forest Practice Rules. Similar to the increased spatial buffers in defining adjacency, the temporal delay in harvesting adjacent stands needs a clear policy rationale and subsequent analysis and stakeholder input.

Demonstration of Financial Feasibility

The draft update includes the addition of restrictive language which disallows financial feasibility demonstrations where comparisons are made to other properties owned by the project submitter, with exceptions provided in special cases. It is unlikely that a landowner would perform a harvest on their property simply to demonstrate the financial feasibility of harvest. Additionally, landowners within a given region may be subject to varying financial hurdles. For example, landowners with a mill and their own harvesting equipment and staff may have a lower financial threshold for harvest than an absentee landowner who harvests in peak markets. In addition, the current language could be interpreted during verification to suggest that a landowner would have to perform sampling activities on a harvested area on another landowner's property, creating a condition that could be impossible to meet. The Reserve recommends reconsideration of this amendment.

At the same time, this section of the protocol would benefit from increased standardization in terms of identifying what constitutes evidence for performing a financial comparison. The Reserve will be happy to work with the Air Resources Board on this challenge, as well as any other challenge that surfaces with the protocol.

Rice Cultivation Compliance Offset Protocol

Section 1.2 Definitions

- '***Field'*** - the definition of field stipulates that rice must have been grown on a relevant parcel of land *'for at least one out of the last three cultivation years'.* This is not consistent with requirements set out in Section 3.1 General Eligibility Requirements, in particular Section 3.1(a)(1), which stipulates that to be eligible a project must '*Only include rice fields in the project area that have planted rice for at least two rice cultivation years in the baseline period before the project commencement'*. These field requirements should be consistent and any key eligibility criteria should be clearly identified in Section 3.1, where they are more easily found and referenced.

Section 3.11 Early Adoption Projects

- There are several inconsistencies between proposed changes to the regulation and guidance in the COP itself:
    - According to the regulation and proposed regulatory amendments in 95990(c)(1), early action can occur as early as 2005 (rather than 2006 as specified in the COP) and be eligible through December 31, 2015.
    - Per the regulation 95990(c)(3)(C), early action rice projects must be listed with an EAOP by January 1, 2016 (not December 31, 2014 as specified in the COP) and such projects should have until April 30, 2016 to complete verification under the EAOP (95990(k)(3)(D)).
    - The OPDR submittal deadline included in the COP seems irrelevant, as the OPDR is not part of EAOP, per se, but rather the ARB's compliance offset program. The proposed regulation 95990(k)(5)states no ARBOCS will be issued to early action rice projects after December 31, 2016; this is the deadline that should be incorporated into the COP, if any.

- Further guidance may be needed regarding how projects that quantify and claim emission reductions ineligible under the COP are to transition into the COP. Reporting of and claiming such reductions may be required under the early action protocol. Would such projects be able to recalculate/re-report reductions? Would this be done when the project seeks issuance of ARBOCs for early action offset credits? We recommend allowing all projects that meet early action requirements to net out any ineligible reductions when the project seeks the issuance of ARBOCs.

Section 5.2.2.1 Baseline Scenarios Establishment

- **(f)** ***Fertilization events*** - Further guidance would be welcome for how baseline fertilization events should be recorded. For instance, it is unclear how average values are to be created for fertilization type and application method.
- **(o)** ***Temporary emergency laws*** - If allowing in the baseline, it would seem important to introduce a similar concession for the project scenario, in particular an exception to the legal and regulatory additionality requirements in section 3.4.

Table 6.1

- A note at the end of Table 6.1 directs that soil parameters must be 'recorded again' if certain events were to occur, including 'soil movement'. This term needs further definition, as it would seem to potentially capture any type of wind/water erosion of soil, which could occur relatively frequently. There is no indication as to when any such changes would become significant enough to warrant recording of soil parameters again. There is also no guidance as to how to reconcile any rerecorded data with previously recorded data. Lastly, it is not clear how this requirement would apply if parties were using SSURGO or STATSGO data or data from another eligible published source. For instance, it is unclear whether parties would be required to demonstrate that the published data they have used (from a database or report) was not followed by such an event of 'soil movement', and how they would do so. It may also be helpful to include this note as a footnote to the soil parameter row in the table, so that it appears at the bottom of page 44 or 45.

Section 6.2.4 Documentation for Fallow Year, Rotation Crop and Winter Crop

- No indication is given as to what (if any) consequences are imposed for not meeting these requirements. For instance, if a project did not meet these document requirements, would it face termination or any other sanctions? It is currently unclear.

Section 8.1 General Verification Requirements

- **(c)** This section stipulates that each fallow year, rotation crop year and winter crop must be verified for the activities specified in Table 6.1 and data entered into the DNDC model. It is unclear why this verification requirement applies to years where no DNDC modeling would be necessary and why the verification requirement is not specified anywhere in the protocol for rice cultivation years, where DNDC modeling is required.