

The Nature Conservancy's Response
To
Public Review Model Rule Draft 03/23/06

Submitted 5/22/06

EXECUTIVE SUMMARY

The Conservancy strongly supports the immediate adoption of a cost-effective, mandatory program to limit greenhouse gas emissions in the U.S. Climate change is already impacting the landscapes and waters that support the diversity of plants, animals and natural communities. We support the RGGI Program as it sets as an exemplary precedent for establishing market-based system to cap CO₂ emissions from the energy sector at little to no cost to the consumer. We view the success of a Northeast regional cap and trade program as a catalyst for regional and national action, which is critical to reducing heat-trapping emissions and minimizing climate change impacts to people and nature.

The Cap

While the Conservancy supports the draft RGGI Model Rule, we strongly urge Governors to adopt a stronger cap than the current proposal to stabilize emissions at 121 million tons until 2015, and then reduce emissions from that level by 10% through 2018. Modeling suggests that a more substantial cap could easily be established at minimal to no cost to consumers of electricity. Thus, we oppose the proposal in the draft Model Rule to exempt certain biomass and commercial facilities from Program.

Offsets

The Conservancy supports the use of offsets to reduce the risk of price volatility in a cap and trade program, and thus lessen the need for other cost-control measures. Offsets both increase the flexibility and lower the cost of emission reduction programs. By expanding the allowance market to include low cost emission reductions from sources outside of the cap, offsets would allow covered entities to take on tighter emissions limits without increasing compliance costs and, thus, increase the overall environmental benefit of the program. The Conservancy supports increasing the amount of offsets regulated entities can use to meet their emission reduction targets to help lower compliance costs.

In order to streamline the safety valve provisions and facilitate the development of offset projects, the Conservancy suggests the following revisions to the Model Rule:

- Remove the middle \$7/ton CO₂ trigger.
- Allow regulated generators to use offsets to meet up to 5% of their total emissions cap from the outset of the program.
- Remove the 2-1 discount of offset projects outside of the RGGI region.
- Allow offset projects from anywhere in the U.S. at the outset of the program.

Additional Offset Project Types

The Conservancy strongly recommends that the Model Rule include a process and timeline for allowing additional offset project types in the program. In particular, we recommend that the Model Rule reference the Governors' intent to consider including forest management, grassland re-vegetation, and forest conservation as eligible project activities in the future, given their potential to yield real emission reductions and substantial benefits for people and the diversity of plants and animals.

The Conservancy offers several specific comments on the rules related to afforestation offset projects. Most notably, we strongly urge a process that allows project developers to pick one of two options to ensure that project carbon benefits are permanent. This choice will provide more flexibility in the design and implementation of projects and facilitate project development.

Allowance Allocation

The Conservancy prefers that each participating State allocate as many emissions allowances as politically feasible to fund activities that reduce carbon emission, benefit consumers, and help fish and wildlife and their habitats adapt to climate change. We support language that emphasizes that 25% or greater of the allowances be used for these purposes.

Adaptation funding

The Nature Conservancy believes that 10% of the allowance sale revenues should be allocated to support projects and programs that will help plants, animals, ecosystems and the most vulnerable Americans adapt to the impacts of climate change.

Leakage

The Nature Conservancy recognizes that leakage due to the import of power from outside of the RGGI region is a critical issue that must be resolved. Leakage undermines the emission reduction achieved through the program. A workable solution must be developed and implemented to coincide with the start of RGGI to ensure that the program meets its emission reduction goals. We pledge to work with the State Working Group and Governors in the RGGI region to assist in developing a solution to this issue.

Should you have questions on any of the comments submitted by The Nature Conservancy, please contact:

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Introduction

The Nature Conservancy is an international, nonprofit organization dedicated to the conservation of biological diversity. Our mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. Anchored in strong science and supported by our work on the ground in all 50 states and 27 foreign countries, the Conservancy is committed to finding cost-effective, achievable solutions that reduce the impacts of climate change and benefit people and nature.

The Conservancy strongly supports the immediate adoption of a cost-effective, mandatory program to limit greenhouse gas emissions in the U.S and views the Regional Greenhouse Gas Initiative (RGGI) as a crucial first step in the process of adopting a federal program. The Conservancy would like to congratulate the Governors from the states participating in RGGI for their leadership on this issue, and thank the Staff Working Group (SWG), who have been working diligently and tirelessly to produce the Model Rule.

We appreciate this opportunity to share our views on the RGGI Model Rule. Our general comments and recommendations on key issues are presented in the body of this document, while our specific recommendations for changing the Model Rule language are included in the attached Appendix. Hyperlinks are included in the body of the document that link to the corresponding recommendations for changing the Model Rule language contained in the Appendix.

Program Cap

The Conservancy believes that the available science on the causes and impacts of climate change justifies including in the RGGI Model Rule a tighter emissions cap than the current proposal to limit emissions to 121 million ton limit until 2015, and then reduce emissions from that level by 10% reduction through 2018. Modeling suggests that a more substantial cap could easily be established at minimal to no cost to consumers of electricity. In addition, analysis by Environment Northeast shows that the cap is actually less stringent than originally envisioned, as is it based on inflated estimates of today's emissions. As a result, the initial cap is approximately 6.6% higher than 2004 emissions from entities regulated by this program.

Plant Exemptions

The RGGI Model Rule currently would exempt plants that burn more than [50% biomass](#) and generation facilities that sell less than [10% of their electrical output to the grid](#). If these plants are exempt from participating in the program, it would lower the amount of emission reductions the program was originally designed to achieve. The Conservancy does not believe that these plants should be exempt from the Model Rule. The Conservancy would support exempting biomass facilities that produced less than a specified amount (e.g., around 25,000 tons of CO₂/year).

Importance of Offsets

For more than a decade, the Conservancy has been working to reduce heat-trapping emissions by implementing offsets project that protect and restore forests and grasslands. Today, through offsets projects covering more than two million acres in Belize, Bolivia, Brazil and the U.S., the Conservancy estimates that over 40 years, the protection and restoration of these largely forested areas will provide a climate benefit, having reduced 32 million tons of CO₂.

The Conservancy strongly supports the creation of a credible, market-driven offsets program to offer regulated entities the option to purchase allowance credits from sources not covered by the program's emission cap. The Conservancy supports the inclusion of real and verifiable offsets in greenhouse gas emission reduction programs for the following reasons:

1. Offsets offer real emission reductions.
2. Offsets both increase the flexibility and lower the cost of emission reduction programs. By expanding the allowance market to include low cost emission reductions from sources outside of the cap, offsets allow covered entities to take on tighter emissions limits without increasing compliance costs and, thus, increase the overall environmental benefit of the program.
3. Offsets help to protect the market against price volatility and, thus, lessen the need for price control instruments such as a price cap safety valve.

The Conservancy urges the design of the RGGI offsets program to minimize confusion and ambiguity regarding: what types of offsets are permitted; when offsets can be used; acceptable locations for offset projects; how many offsets are allowed; and the process for determining the validity of offset projects. Minimizing confusion will help to lower the compliance costs of the RGGI program by reducing market uncertainty and risks, lowering transaction costs, and increasing the availability of offsets.

Currently, there are many provisions in the proposed Model Rule that would create financial and logistical challenges to prospective project developers. Most of our comments and recommendations aim to diminish these challenges to facilitate the availability of credible, low-cost offsets.

Safety Valve Triggers

Streamline the Process

The Conservancy believes that the Model Rule definitions on how the offset safety valve would be triggered are overly complicated. As proposed, the Model Rule sets two price triggers intended to increase the flow of offsets into the market as the price of allowances

increases.¹ With multiple price triggers, each with different consequences, the program rules could be in a constant state of flux as the price of allowances rises and falls. It would be impossible for a project developer to calculate the rate of return on investments in offset projects given the uncertainty of what rules would apply. This uncertainty would greatly reduce investments in offsets projects. Ultimately, this uncertainty would reduce the availability of offsets in the market, and drive up program compliance costs.

We realize that the creation of two price triggers was written into the Memorandum of Understanding (MOU), however, we feel strongly that this structure should be reconsidered. [The Conservancy recommends that the first trigger of \\$7/ton CO₂ be eliminated.](#) By including only one price trigger at \$10/ton, we believe that it would reduce market uncertainty created by multiple price triggers and would result in an increase in the availability of offsets.

Summary of Offset Trigger and Offset Use Recommendations

- Remove the \$7/ton trigger.
- Allow regulated generators to use offset credits to meet up to 5% of their total emissions cap from the outset of the program.
- Do away with the 2-1 discount of offset projects outside of the RGGI region.
- Allow offset projects from anywhere in the U.S. at the outset of the Program.

Offsets - General Provisions

Minimum eligibility

The Conservancy was pleased that the MOU stated that the RGGI offset program would require that projects are real, surplus, verifiable, permanent, and enforceable. Unfortunately, these minimum eligibility requirements specified in the MOU were not included in the draft Model Rule. We recommend that these be include in the Purpose section XX-10.1 of the Model Rule to ensure that emissions reductions achieved through offsets projects are credible.

¹ There are two price triggers in the Model Rule, with the first trigger set at \$7/ton CO₂. If the \$7/ ton trigger price is exceeded on a sustained basis, the RGGI Program would allow sources to use offset credits to meet up to 5% of their total emissions cap and would eliminate the 2-1 discount of offsets from outside of the RGGI region. The second trigger is set at \$10/ton CO₂ and would allow sources to use offset credits to meet up to 20% of their emission cap, and would allow the use of offsets from projects anywhere in North America. Both of these triggers would be reset along with the corresponding rules, if the price of allowances were to drop below the trigger price.

Intent and Process to Add Additional Offset Project Types

As stated in the MOU, the states will “continue to cooperate on the development of additional offset categories and types, including other types of forestry projects, and grassland re-vegetation projects. Additional offset types will be added to the Program upon approval of the Signatory States.” We recommend that section XX-10.1 of the Model Rule include a process and timeline for allowing additional offset project types in the Program. Our [suggested language](#) is included in the Appendix.

In addition, we strongly recommend that the Model Rule specifically reference the Governors’ intent to include in the offsets program [forest management, grassland re-vegetation, and forest conservation as eligible project activities](#), given their potential to yield real emission reductions and substantial biodiversity conservation benefits.

Ensuring an Adequate Supply of Offsets

Supply of Offsets and Discounting

We recommend that at the start of the program, each entity be allowed to use offsets to meet up to [5%](#) of their emissions target. We also recommend that the [2-1 discount rate](#) for offsets produced outside the RGGI region be removed from the Model Rule. We believe that allowing full crediting of offsets outside the RGGI region will reduce the program compliance cost and increase the ability of regulated entities to take on tighter emission reduction targets in the future.

We believe that an adequate supply of offsets must be available to prevent prices spikes or other program failures. For example, as the market launches there may be considerable uncertainty with regards to allowance availability and price. Thus, regulated entities may hold onto more allowances than necessary to ensure they are in compliance with the program, which could drive up the cost of allowances. Ensuring the availability of offsets may be the only way to increase liquidity in the market and prevent price spikes. .

Availability of Afforestation Offsets

The Nature Conservancy, along with Winrock International and The Sampson Group are conducting a study² in the original RGGI states (ME, VT, NH, MA, RI, CT, NY, NJ, DE, MD and PA) to measure the availability and cost of offsets from various land-use activities. The cost estimates consider opportunity costs and other factors. The preliminary results of the study indicate that the cost of afforestation offsets is substantially higher than the IPM modeling estimates of RGGI allowance prices. However, results from a similar study conducted in the Southeastern U.S.³, show that estimates for costs of some afforestation offsets fall within in the RGGI allowance prices estimate by the IPM model.

² The project being conducted under a cooperative agreement with DOE and is titled, “Terrestrial Carbon Sequestration in the Northeast: Quantities and Costs.” It is due to published in January 2007. Draft results are currently being produced and will be issued for public input and feedback.

³ Winrock’s report on the carbon supply and costs in the southern states and was funded by USDOE Regional Partnership Program and is available from Sandra Brown (sbrown@winrock.org).

Given the preliminary projected cost of afforestation offsets in the RGGI region, it is unlikely that any of these offsets will offer a cost effective means of compliance as compared the projected price of allowances for the RGGI market. However, afforestation offset credits from other regions of the U.S. may be produced in a cost range that would offer a viable compliance option for the regulated entities. It is likely that there would be similar affordable offsets available in U.S. territories, Mexico and Canada due mainly to the lower cost of land in those areas.

Use of International Allowances

In addition, the Conservancy supports the use of allowances purchased from countries that have in place national mandatory programs to limit greenhouse gas emissions. Sections XX-10.3(b) and XX-10.7(a)(2) of the proposed Model Rule allows entities to use these allowances if the price of CO₂ reaches \$10 / ton. While we would prefer that emissions allowances from other countries be available at the outset of the program, we could support the above provision if the initial \$7/ton CO₂ price trigger is removed and the \$10/ton trigger is the only trigger in the program.

The Conservancy strongly supports allowing the use of emission reductions from international programs in the RGGI Program. Linking to international emission reduction programs will increase market liquidity and efficiency and lower overall compliance costs. It will also set a precedent for stronger international cooperation on mandatory measures to reduce greenhouse gas emissions. To prevent dangerous levels of climate change, including the U.S. in international emission reduction efforts is essential.

General Additionality Requirements.

The Conservancy agrees that a general financial additionality provision should not be included in the Model Rule. In our experience, provisions that call for a financial analysis, like a balance sheet analysis, are too easily gamed and, thus, not meaningful.

Application process

Lead agency for review

The Conservancy recommends that one agency in each state be designated to lead the offset project review process within the state, with input from other agencies. As written this is not clearly stated and thus multiple agencies within one state could end up reviewing projects. By having states designate a lead agency, it would not preclude multiple agencies from providing comment and reviewing projects. A designated lead agency would reduce uncertainty and transaction costs for offset investors by ensuring more administrative and substantive consistency in the review process.

Third Party Verifier Requirements

The Conservancy supports the use of third party verifiers to ensure that offsets produced meet the model rule requirements. The process for approving third party verifiers and ensuring the verifiers have no conflicts of interest is valid and appropriate.

Afforestation Offset Project Rules

Maximum crediting period for CO₂ emissions offset projects.

In the offsets eligibility section, the draft Model Rule limits the project crediting period to ten years with an option to renew for ten more years. The Conservancy strongly recommends that this provision be removed. The length of the project crediting period should be defined differently for each project types. For afforestation projects, a crediting period longer than ten years is needed to allow for the carbon benefits to accrue as the trees grow. Over the first ten years of an afforestation project, only a small amount of carbon is actually sequestered, and the bulk of the carbon is typically sequestered between years ten and forty. A ten year crediting period may be appropriate for energy efficiency projects or other project types, given evolving and improving state of technology.

The Conservancy recommends that the crediting period for afforestation projects [be lengthened to 20 years, with an option to renew the 20 year crediting period at years 20 and 40](#) (i.e., a total crediting period of up to 60 years) if the project continues to meet all applicable requirements.

Project Eligibility

Non-forested for at least 10 years

The Conservancy agrees that land only be eligible if it has been in a non-forested state for at least 10 years before the project is initiated.

Sustainably managed

We recommend further defining the term, “environmentally sustainable” in XX-10.5(c)(1)(iii) as this term is vague and open to interpretation. We suggest saying “with management practices that ensure that the project has been managed in accordance with [environmentally sustainable forestry practices](#) and if the wood is harvested from the site, the harvesting practices should be consistent with the Forest Stewardship Council (FSC) and/or Sustainable Forestry Institute (SFI) standards, or other similar standards approved by the REGULATORY AGENCY.”

FSC and SFI standards only apply to lands producing wood product for sale, and thus the words, “consistent with” should be left in this definition. Not all forest lands, especially smaller parcels, will be FSC or SFI certified because it is expensive to do so and/or they may not be producing wood products. Yet many of these parcels are managed using environmentally sustainable forestry practices. It is important to ensure that lands are managed in a manner that is consistent with the FSC and SFI certification standards to protect against environmentally detrimental activities such as, use of invasive exotics or other activities harmful to water and biodiversity.

Project description requirements

The Conservancy recommends that the Model Rule require projects to be designed to [promote native forests by](#) using mainly native species and avoiding the introduction of non-native invasive species.

Baseline determination, measuring and monitoring

Methodology for determining baselines for land-use offset projects can vary depending on the type of activity being carried out. As written, the Model Rule describes an approach that is commonly referred to as a base year approach. A base year approach requires a measurement of the carbon in the project to occur at the start of the program, at the base year. Net carbon change is measured based on the base year measurement. In order to be clear about this, we suggest the Model Rule include a [definition for baseline](#) in the definitions section XX.10.2.

The [direct measurement procedures](#) in the RGGI Model Rule should be consistent with the guidance in *Section 3: Measurement Protocols for Forest Carbon Sequestration in the USDOE 2006. Technical Guidelines for Voluntary Reporting of Greenhouse Gas Program. Chapter 1, Emission Inventories, Part 1 Appendix: Forestry*. These were developed in large part by Winrock International and are more current than the Winrock (1997) protocols currently cited in the Model Rule.

Also, we recommend that the Model Rule be revised to allow the measurement of [soil carbon](#) to be optional rather than mandatory. Over the course of an afforestation project, of 20 years or longer, it is very likely that carbon will be sequestered in the soil given that the project is designed to store carbon in biomass. However, the amount of carbon sequestered in the soil, in many cases, is likely to be minimal. Given the relatively high cost of measuring a relatively small amount of carbon sequestered in the soil, it would not be practical or cost-effective for the Model Rule to require soil carbon measurements.

Measurement accuracy

The draft Model Rule requires a measurement accuracy of 95% confidence that the resulting reported value is within 10% of its true value for each individual carbon pool being measured. We recommend that the level of measurement accuracy to be required for the combined carbon pool measurement as compared to the individual carbon pools and the statistical analysis be done on the combined carbon pool. This is the approach taken in the revised USDOE 1605(b) methods. Combining the carbon pools is necessary as dead standing and lying biomass is extremely variable and would require many more plots than for live trees. It would be costly and onerous to require this level of accuracy for these pools.

For future consideration – look up tables

The Conservancy also urges the RGGI States to considering developing credible look-up tables of data on carbon storage by species and location to reduce transaction costs and further minimize potential for over estimating project carbon benefits. The USDOE 1605(b) program uses this approach. The data currently in the 1605(b) look-up tables is not accurate enough to use on at a project level to calculate carbon as part of a mandatory program. We believe that with time the RGGI and other programs could yield data that is accurate enough to include in look-up tables.

Permanence

The Conservancy recommends that rules must be included to ensure the permanent sequestration of carbon from all land-use offset projects. There is the potential for carbon being released to the atmosphere as the result of cutting the planted trees or unexpected occurrences such as wildfires or extreme weather events. As written, this Model Rule puts forth two major requirements for addressing this risk, 1) a permanent easement, and 2) a 20% discount of measured emission reductions.

The Conservancy believes that a 20% discount of credits is overly conservative in combination with a permanent conservation easement. The discount of credits is necessary to protect against carbon loss from wildfires and extreme weather events. However, [we believe that a 10% discount](#) in combination with a [permanent easement](#) is more than adequate to address carbon sequestration permanence from afforestation projects.

In general, a permanent conservation easement is an effective tool for ensuring that lands remain in forest in perpetuity and are managed in a sustainable manner. We recommend adding more specific language to specify the purpose of the easement. [Easement language](#) should ensure that the lands remain forested in perpetuity with carbon density levels at least at project carbon density levels and should be managed in accordance to the sustainably management provision discussed previously.

However, the Conservancy recognizes that for many land owners a required permanent easement may be a very onerous and costly. Therefore, we strongly urge the addition of an alternative option to permanence. It would be the project developer's choice as to which approach they prefer.

We recommend adding an alternative option that requires a liability contract be in place between the project developer and the purchaser of the offset credits to ensure that any carbon lost during the project duration be replaced. In addition, the offset project would produce temporary credits, valid during the 20 or 40 or 60 year lifetime of the project. At the end of the project lifetime those credits would have to be replaced by the user of those credits. In addition, at the end of the project lifetime, the developer could also choose to place a permanent conservation easement on the property, and thus make the credits permanent.

We feel that both options provide to address permanence are valid and by providing two different approaches, the Conservancy feels that project developers will have more flexibility in crafting their projects, and thus more projects will likely be undertaken.

Summary of Conservancy Permanence Recommendation

The Project Developer must pick one of the two options at the outset of the project.

Option one:

1. A permanent easement, that requires the land to be maintained in a forested state in perpetuity at least at project carbon density levels, and managed in accordance with environmentally sustainable forestry management practices as detailed in XX-10.5 (c)(5)(c), and
2. A 10% discount of credits to account for loss of carbon from wildfire and extreme weather related activities.

Option two:

1. A require a liability [contract](#) be in place that requires the user of the credits to replace any carbon lost over the [project life time](#) (20 or 40 or 60 years), and
2. After the project lifetime, all the credits must be replaced.

Could also choose to:

3. Place a conservation easement on the property at end of project lifetime to turn temporary credits into permanent credits.

Allowance Allocation

The Conservancy prefers that each participating state allocate as many emissions allowances as politically feasible for purposes of funding carbon reduction investments, providing consumer benefit and climate change adaptation purposes.

Specifically, we recommend that the Model Rule be amended to read, [“twenty-five percent or greater,”](#) to clarify the intent of many states to allocate more allowances for generating public funds.

Also, as written in the draft Model Rule, we find the language “strategic energy purpose” to be vague and open to interpretation and urge this to be changed to greenhouse gas emission reduction effort. The Nature Conservancy supports the use of these funds be used to support the development and the deployment of emissions reductions technologies such as the deployment of energy efficiency technologies, demand-side management measures, renewable energy technologies and fuel efficient vehicles. The Nature Conservancy also believes that the proceeds from at least ten percent of the total number of emission allowances allocated to consumer benefit or carbon reduction activities should be used to help plants, animals, and ecosystems adapt to the impacts of climate change.

Scientific evidence of the risks of climate change highlights the urgent need for funds to help people, plants and animals adapt to climate change. In 2002, the National Academy of Science concluded that, “recent scientific evidence shows that major and widespread climate changes have occurred with startling speed....The new paradigm of an abruptly

changing climate system has been well established by research over the last decade, but this new thinking is little known and scarcely appreciated by the wider community of natural and social scientists and policy makers.”⁴

As temperatures continue to rise, scientists predict increased ice melt, rising sea levels, increased intensity of storms and other extreme weather events that will likely have severe impacts on people and natural areas. Scientists anticipate that as the climate changes, certain habitats and places may no longer have the right conditions for the plants and animals that live there now. Global climate change has already caused the geographic ranges of some plant and animal species to shift northward and upward in elevation, while ranges for others have shrunk considerably. Fisheries, timber harvests, grazing and nature parks are all managed based on ecological processes that are being fundamentally altered by climate change. Developing adaptation strategies will be essential to protect these natural assets in coastal areas, and on public and private lands.

Adapting to climate change can offer benefits for people and wildlife. For example, restore and protect coastal wetlands can protect communities and natural areas from hurricane surges, which could become more frequent and severe with climate change. Protecting forests can protect waterways from erosion during severe rainfall. Adapting to climate change can also offer emission reduction or carbon sequestration benefits. For example, restoring coastal forests both protects against erosion and storm surge and sequesters carbon.

The following are suggestions for use of funding appropriated for climate change adaptation:

(1) no less than 70 percent of these proceeds to implement climate change impact mitigation plans integrated into Comprehensive Wildlife Conservation Strategies in the Northeast.

(2) up to 30 percent of these proceeds to support programs and projects to:

(A) identify state lands and waters at greatest risk of being damaged or depleted by climate change, to monitor state lands and waters to allow for early detection of impacts, to develop adaptation strategies to minimize the damage, and projects to restore and protect federal lands and waters at greatest risk of being damaged or depleted by climate change.

(B) identify coastal and marine resources, such as, coastal wetlands, coral reefs, submerged aquatic vegetation, shellfish beds, and other coastal or marine ecosystems, at greatest risk of being damaged by climate change; to monitor such resources to allow for early detection of impacts; to develop adaptation strategies; to protect and restore such resources; and to integrate climate change adaptation requirements into state plans

⁴ National Research Council (2002) *Abrupt Climate Change: Inevitable Surprises*. National Academy Press, Washington, D.C.

developed under the Coastal Zone Management Program, National Estuary Program, Coastal and Estuarine Land Conservation Program or other comparable state program.

(C) conserve habitat for endangered species and species of conservation concern that are vulnerable to the impacts of climate change.

(D) fund other state programs identified as high priorities to protect natural communities most vulnerable to climate change, and to restore and protect natural resources that directly guard against damages from climate change events.

(E) promote sharing of information on climate change wildlife impacts and mitigation strategies across agencies.

Leakage

The Nature Conservancy recognizes that leakage due to import of power from outside of the RGGI region is a critical issue to address and resolve. A workable solution must be developed and implemented to coincide with the start of this Program to ensure that 10% emission reduction by 2018 will be met. We will participate in the process set up to establish options to address this important issue and urge the RGGI staff to devise a solution that ensures the integrity and original goals of the RGGI Program.

Appendix

Words that appear in **red** are the Nature Conservancy's suggested word changes and edits to the Model Rule.

This section is laid in the same order as the Model Rule.

XX-1.2 Definitions

(af) Fossil fuel-fired. With regard to a unit: the combustion of fossil fuel, alone or in combination with any other fuel, where the unit **emits less than [suggested: 25,000] tons per year of CO₂.**

The Conservancy recommends that these two sections are deleted:

(ay) Stage one threshold price

(az) Stage one trigger event

The Conservancy recommends the following edits to these two sections:

(ba) Stage two threshold price

(bb) Stage two trigger event

and anywhere in the document where a Stage one or two trigger event is referred to should be amended to simply say "trigger event".

XX-1.4 Applicability

The Conservancy recommends that (b), the option to less than 10% output to the grid, be deleted.

XX-5.3 CO₂ allowance allocations.

The Conservancy recommends amending subsection (b) by deleting "strategic energy purpose" and adding the following language.

(b) Consumer benefit, **climate change adaptation or greenhouse gas reduction activity** allocation.

The REGULATORY AGENCY will allocate twenty-five **or a greater** percent to the consumer benefit, **climate change adaptation, or a greenhouse gas reduction effort.**

XX-6.5 Compliance

(a) allowances available for compliance deduction.

(3) (i) unless the provisions of subparagraphs (ii) or (iii) of this paragraph apply, **5%**

The Conservancy recommends deleting (3)(a)(ii).

XX-10.1 Purpose

The Conservancy strongly urges the addition of the following language to this section:

In general all offsets must be real, additional, verifiable, permanent and enforceable. In addition, offset projects must yield a net environmental benefit beyond climate change mitigation.

XX-10.2 Definition

Baseline – For afforestation projects, the baseline is determined using a base year approach, whereby the amount of carbon stored at the site is measured the year prior to the start of the project. The amount of carbon sequestered in each subsequent year is then measured as a net change of carbon relative to the base year measurement.

XX-10.3 General requirements

Eligible CO₂ emissions offset projects.

The Conservancy recommends the following language be added to this section:

Additional offset types will be added to the Program upon approval of the all participating states. The REGULATORY AGENCY will continue to cooperate with other participating states on the development of additional offset categories and types, and will immediately follow the process described to consider the inclusion forestry management, grassland re-vegetation and land and soil conservation projects. Reports will be issued and recommendations on these offset types addition to the Program will be issued within six months of the finalization of this Model Rule.

The REGULATORY AGENCY will appoint a lead staff member to manage the information gathering process on a particular proposed offset type, as laid out in this section. The REGULATORY AGENCY will also consult with nongovernmental experts. The lead staff member, in coordination with other staff members from the other PARTICIPATING STATES, will define how the proposed offset project type meets the following criteria:

- Will it provide valuable experience for future expansion of RGGI program?;
- Will it encourage development of new practices or technology that would facilitate the expanded breadth and scope of carbon reduction activities?;
- Will it provide significant environmental co-benefits?; and
- Will the use of standardized protocols viable for the proposed offset project type?

The staff will also document the proposed offset project type availability, potential cost and implementation issues. A report will be issued containing the answers to the above questions and data and the staff's recommendation on adding the offset type.

Should the recommendation be to add the offset type, draft MOU and draft model rule language will be issued within 30 days of the issuance of the report. A 30-day public comment period will follow. Final MOU signed by the PARTICIPATORY STATES and model rule will be issued within 45 days after the close of the public comment period.

XX-10.3 General requirements

(e) Maximum crediting period for CO₂ emissions offset projects.

The Conservancy recommends this provision be moved and amended so that it is specific to each offset project type. For afforestation, we recommend that it be moved to XX-10-10.5(c), add a numbered heading (it would make sense to add it as (2) and renumber the other headings accordingly). We suggest the following language:

(e) Crediting period for afforestation offset projects.

REGULATORY AGENCY may award CO₂ offset allowances under section XX-10.7 for any afforestation offset project for up to twenty years, provided the REGULATORY AGENCY may award afforestation offset allowances for two additional twenty year periods upon a demonstration by the project sponsor that the afforestation offset project meets all the applicable requirements of this Subpart for such projects at the end of the first twenty-year period. Prior to the extension of the crediting period, the project sponsor must submit a consistency application pursuant to section XX-10.4 and receive a consistency determination from the REGULATORY AGENCY pursuant to paragraph XX-10.4(e)(2).

XX-10.4 Application process.

(4) For CO₂ emissions credit retirements, the application may be filed with the appropriate **designated lead RGGI** regulatory agency in any Participating State.

XX-10.5 CO₂ emission offset project standards

(c) Sequestration of carbon due to afforestation

(1) Eligibility.

The Conservancy recommends that in (iii) the words “sustainable forestry practices” be deleted and the following be inserted:

(iii) The project sponsor shall document that the project will be managed in **accordance with environmentally sustainable forestry practices** and if the project is producing wood product, the practices should be consistent with the Forest Stewardship Council (FSC) and/or Sustainable Forestry Institute (SFI) standards, or such other similar standards as may be approved by the REGULATORY AGENCY.

(iv) The project sponsor must design the project to promote the restoration of native forests.

(2) Project description.

(iii) A copy of the permanent conservation easement required pursuant to paragraph (6) of this subdivision, **if this is the project developers chosen method for addressing permanence. The easements shall ensure that the lands remain forested in perpetuity with carbon density levels at least at project carbon density levels and should be managed in accordance to the sustainably management provision discussed previously.;** and

(iv) The forest management plan that details how the project will promote the restoration of native forests.

(v) Contract between the owner and project developer establishing liability for offset credit replacement during the length of the project duration, **if this is the project developers chosen method for addressing permanence.**

(3) Carbon sequestration baseline determination.

The Conservancy recommends moving to (ii):

(i)(c) soil carbon

(v) Calculating of sequestered carbon....

Need to clarify the following:

C/ha = mean carbon content in **metric tons** per hectare. **To convert 1 metric ton to 1 short ton, multiply metric tons by 1.1**

(vii) Each individual carbon pool be measured must be directly measured using a measurement protocol and sample size that achieves a demonstrated quantified accuracy for the **combined carbon pool measurement** such that there is a 95% confidence that the resulting reported value is within 10% of the true value.

The Conservancy recommends deleting reference to Winrock guidelines and inserting the following:

(viii) Direct measurement procedures shall be consistent with current good forestry practice and the guidance contained in the **USDOE 2006. Technical Guidelines for Voluntary Reporting of Greenhouse Gas Program. Chapter 1, Emission Inventories, Part 1 Appendix: Forestry.**

(4) Calculated carbon sequestered.

(i)or better quantified **precision** consistent.....

(iii) Net carbon stock change for the project is the sum of the net changes in the carbon stock of all applicable pools in all reporting sub-populations within the project boundary. **The net carbon would be discounted by ten percent (10%) to account for potential losses of sequestered carbon if Permanence Option one is chosen.**

(6) Carbon Sequestration Permanence. The project shall meet the requirements delineated in **Permanence Option one OR Permanence Option two to address permanence of sequestered carbon.**

(i) Permanence Option One:

- A permanent easement, specifying that the land to be maintained in a forested state in perpetuity, at or above project carbon density levels and managed in accordance with environmentally sustainable forestry management practices as detailed in XX-10.5 (c)(5)(c), and
- A 10% discount of credits to account for loss of carbon from acts of God, such as fire and extreme weather related activities.

(ii) Permanence Option Two:

- A liability contract be in place that requires the user of the credits to replace any carbon lost over the project life time (20 or 40 years), and
- After the project lifetime, all the credits must be replaced.
- With an option to place a conservation easement on the property at end of project lifetime to turn temporary credits into permanent credits.

XX-10.7 Award of CO₂ offset allowances (a)(1)(i)

The Conservancy recommends the following change to XX-10.7(a)(1)(i)(a), and the deletion of XX.10.7(a)(1)(i)(b).

(a) one CO₂ offset allowance will be awarded for each ton of demonstrated reduction in CO₂ emissions or CO₂ equivalent or sequestration of CO₂ from a CO₂ emissions offset project that was undertaken within a Participating State **or any State.**