Comment on Climate Commitment Act Program, WAC 173-446, sections 500-595

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To whom it may concern,

Thank you for the opportunity to comment on this proposed rule for carbon offsets as you work to finalize the structure of the "cap-and-invest" program. At NCX (the Natural Capital Exchange), we are leading experts in forest biometrics and carbon accounting, and we have over 10 years of experience serving the nation's largest forest owners and stakeholders with inventory data services.

Our team provided analytical support on more than 20 CARB projects between 2017 and 2020, and in 2021 NCX launched its data-driven marketplace for forest carbon credits. Our pioneering IFM methodology uses ton-year accounting supported by high-precision forest data.

We applaud Washington State's ambitious emissions targets through 2050, the cap & invest program, and its inclusion of carbon markets as one important element of its climate strategy. We also support the declining cap on the portion of allowances eligible to be met by offsetting.

We hope that the following comments will contribute to the development of effective rules for the cap & invest program and will assist Ecology in creating real, immediate, scalable, and verifiable climate impact in the state of Washington.

We are concerned that by tying itself closely to the 2015 CARB-approved Compliance Offset Protocol for U.S. Forest Projects (U.S. Forest Protocol), WA state may undermine the credibility, efficacy, and adaptability of its compliance market.

If the WA market suffers the same shortcomings as the CA Compliance Offset Program, this would not only impede WA from meeting its climate goals, but would also throw the entire credit market into question, making it difficult for others to use these important tools in the future.

Our comments will fall into 4 sections:

I. Adaptability of the future Ecology protocol
II. Accessibility for WA landowners
III. Immediate climate impact
IV. Summary of Recommendations

I. Adaptability of the future Ecology protocol

In recent years, the CARB Forest Protocol has faced increasing levels of criticism concerning the efficacy of its methods and quality of resulting offsets.

Given the serious criticisms of the 2015 CARB Protocol, described in ProPublica (here and here), Bloomberg (here and here), CarbonPlan, and elsewhere, we discourage Ecology from replicating the CARB Forest Protocol.

As we will describe in further detail in Section V, we suggest that Ecology either employ a different protocol or work to significantly alter the CARB protocol. Alongside either of these tracks, we recommend that Ecology accelerate the development of its own forest protocol.

Ecology has proposed that it "mirror rules" from CARB in the short term, "maintain consistency with CARB rules" in the long run, and generate offsets that "meet same or substantially similar criteria for quality"as California's.[1] We believe that this commitment will limit Ecology's ability to update its rules in the future and integrate critical advances in technology, carbon accounting, and project design.

The 2015 CARB protocol was designed a decade ago. Its "common practice" approach was adopted in response to the difficulty of setting a baseline for each individual property, which was more challenging at the time of CARB protocol design given data and computational limitations.[2] Since then, new data and technology have advanced our ability to accurately measure carbon stocks, predict baseline activity, estimate uncertainty, and account for factors such as leakage, permanence, and additionality.

Today, modern statistical approaches and machine learning are being used to create more accurate baselines. Using these methods to analyze high-resolution satellite data and publicly available forest data, we can create more highly accurate and precise predictions of business as usual. This type of fine-scale prediction is essential to the progress of the forest carbon industry.

We discourage Ecology from committing to any specific protocols in a way that will prevent the state from adopting new protocols and improved methods as they emerge. Doing so would go against the first principles of adaptive management held commonly throughout environmental policy and management contexts.

II. Accessibility for WA landowners

WA should ensure that its compliance market is accessible to all sizes and types of landowners, and maintain optionality for protocols that make the best fit for different landowners.

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[1] Presentation for 12/16/21 stakeholder meeting about Chapter 173-446 WAC, Climate Commitment Act Program

[2] https://www.pacificforest.org/wp-content/uploads/2019/08/tuttle-protocol-white-paper-20190823.pdf

Increasing accessibility will have three critical effects for the WA market:

1. Maximize available credit supply and environmental impact
2. Benefit WA landowners by providing new revenue streams
3. Minimize market leakage

1. As it is currently written, Ecology's proposed rule will limit participation to only the largest landowners. Small forest landowners make up 15% of WA forests, or approximately 3 million acres.[3] But Ecology's proposed rule has significant barriers to entry: it sets a minimum 10 year requirement on project crediting period for sequestration projects, and this type of carbon project frequently takes several years and thousands of dollars to set up. This high threshold will exclude small and medium landowners, disqualifying millions of acres that could otherwise be leveraged for climate and environmental impact.

   By making its market accessible to landowners of all sizes and types, Ecology will increase the scale of impact the program can have on mitigating climate change. It will also ensure greater immediate benefit to the state of Washington - for carbon sequestration, and also for co-benefits like water, biodiversity, and air quality.

2. By increasing participation, Ecology will also increase the alternative carbon-based revenue streams that can flow to smaller landowners as well as large industrial forest owners.

3. Making carbon markets more widely accessible has been shown to minimize the leakage factor, a critical problem in current carbon markets. If only the largest landowners participate, then the reductions in harvests may easily "leak" to surrounding smaller landowners who are unable to participate.

Finally, Ecology should also consider that WA landowners differ widely in their objectives and management style, and may prefer different project structures that work best for their land management regime. For example, carbon management may look quite different in fire-prone areas than elsewhere. A rigid protocol may present perverse incentives with competing management objectives like wildfire mitigation.

By maintaining optionality in which protocols to adopt going forward, WA can make sure that all landowners - small, medium, industrial, and public lands - are included in the climate solution through an IFM structure that works best for them and for their environment.

III. Immediate Climate Impact

[3] https://apps.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=Small-Forestland-Owners-ESSB-5330-Report-2021011_8378259f-f9fb-47f4-8727-58819fc10027.pdf

We encourage WA to maintain optionality in how projects can meet requirements for permanence, in order to prioritize immediate climate impact and leverage the benefits of ton-year accounting.

Ton-year accounting creates an opportunity to accelerate climate mitigation by demonstrating an equivalence between the value of holding 1 ton of CO2 out of the atmosphere for 100 years and the value of holding a larger volume of carbon for a shorter period of time.

Projects that use ton-year accounting may generate credits by storing larger volumes of carbon year over year, rather than committing to hold smaller volumes of carbon decades into the future. These projects also do not face the risk of reversals and non-additionality that long-term projects regularly grapple with, due to the challenge of predicting long-term forest and market conditions. They also hold the advantage of creating immediate, scalable, and highly quantifiable climate impact. NCX is currently working with the academic community to advance the science of ton-year accounting.

Ecology should maintain the option of implementing advanced new methods as they emerge. Mirroring CARB's protocol would preclude this sort of innovation as new approaches evolve.

IV. Summary of Recommendations

a) WA should not commit to mirroring CARB's Forest Protocol in the short or long term.

b) If WA does continue to follow the framework of CARB's protocol, it should make significant changes to increase quality, including the following:
    i) Replace broad regional baselines with more appropriate zones and fine-scale predictions.
    ii) Eliminate up-front payments for above-baseline stocks, and replace with a payment-on-delivery model as much as possible.
    iii) Maintain optionality for various modes of meeting the permanence requirement, including ton-year accounting.
    iv) Eliminate the 10-year minimum for sequestration project crediting periods, and allow shorter periods for harvest projects to prioritize immediate impact on the climate, as long as a project demonstrates adequate climate impact.
    v) Eliminate restrictions for repeating projects in the same project area, as long as they meet requirements for additionality and permanence.

c) While developing its own protocol, Ecology should do the following:
    i) Accelerate the process of developing their own protocols as rapidly as possible.
    ii) Take a highly conservative approach to mirroring other protocols and adapt them to improve rigor.
    iii) Consult with leading experts in forest carbon measurement and offsetting

iv) Set up an advisory committee of scientists and industry representatives to annually review the efficacy and adaptability of WA's approaches to generating climate mitigation from natural climate solutions.
v) Follow recommendations for all of section (b), and in addition:
    1) Prioritize a payment on delivery model.
    2) Prioritize immediate climate impact.
    3) Increase access for landowners of all types and sizes.

d) With regards to Compliance Offset Protocols from other major registries, Ecology should do the following:
    i) Do not allow credits generated from protocols dated to before 2015.

V. Conclusion

We support Washington State's effort to include forest carbon offsets in its policy toolkit, and we believe that the WA Department of Ecology should chart a new path for its compliance program rather than repeating the mistakes of the past. We strongly recommend that Ecology develop a high-integrity rule that prioritizes immediate climate impact, ensures accessibility for landowners, and maintains optionality for adopting new protocols and methods as they emerge.

We hope that WA state is able to integrate our feedback and create a robust new rule for offsets that will ensure real, immediate, and scalable impact. NCX is excited to work together to ensure real climate impact in the decade when we need it most.