



August 30, 2016

Via online comment form at: <https://www.arb.ca.gov/lispub/comm2/>

California Air Resources Board
1001 I Street, Sacramento, CA 95812

Re: Comments Regarding the Draft Guidance for the U.S. Forest Protocol

To the California Air Resources Board:

These comments are submitted on behalf of the Center for Biological Diversity regarding the draft guidance for the Compliance Offset Protocol for U.S. Forest Projects ("Forest Protocol") of the greenhouse gas cap-and-trade program. These comments are submitted in response to the draft guidance document released on August 16, 2016, relating to the updated Forest Protocol adopted by the Air Resources Board on June 25, 2015.

The draft guidance document offers clarification to various sections of the Forest Protocol. For the most part, these statements simply indicate the source or intention of particular provisions, or define specific terms. Our comments here focus on those sections of the guidance with implications for the conservation of forest ecosystems and wildlife habitat.

Chapter 1.2 Definitions: Clearcut Standards.

“Further clarification...Clearcutting is an even-aged regeneration harvest that removes all or most trees in a stand in one harvest, with the objective of establishing a new cohort of trees. In adding this definition, there is no intent to impose additional rules or change the definition of silvicultural methods. The California Forest Practice Rules were selected as the appropriate standard because one of the goals of the offsets program is to encourage the adoption of California’s rigorous standards by other locations. Additionally, selecting a single standard creates a level playing field for all projects and simplifies verification by only having a single national standard rather than multiple regional standards.” Emphasis added. Draft guidance at 4 and 5.

The reference in this guidance section to California’s “rigorous standards” presumably refers to the state’s forest practice regulations. Putting aside the highly dubious claim that California’s regulations for forest management are rigorous—including the question of whether they are adequate to protect forest health and wildlife habitat—this guidance indicates that using the definition of clearcut provided in the forest practice regulations would somehow encourage the adoption of California’s forest regulations. This point is not clear and the mechanism by which this might occur should be explained.

Chapter 1.2 Definitions: Clearcut Unit Shape.

“Clearcut unit shape should be irregular and variable when practical, as not all situations will allow for highly variable shapes. Verification of adherence to this statement is subjective, and verifiers are encouraged not to expect application of variable shapes in all instances but to verify project developers’ efforts to vary shape when practical. Projects are required to conform to all local, state and federal laws and regulations. Verification should confirm conformance with any additional even-aged management requirements in the California Forest Practice Rules in order to satisfy the state conformance requirement for project located in California, and confirm conformance with any applicable standards for projects located in other states.” Emphasis in original. Draft guidance at 5.

This guidance does not define what is intended by the qualification “when practical” (emphasized in italics in the guidance), and does nothing to clarify what is meant by the term “irregular.” As a result, this provision in the Forest Protocol remains largely meaningless. The statement that projects must conform to applicable laws, and that projects in California must conform to California requirements, are redundant and hopefully unnecessary but reminders of such obvious facts may be warranted in this case.

Certainly, this section of the draft guidance does nothing to clarify or justify the provision in the Forest Protocol itself that states *“When practical, clearcuts shall be irregularly shaped and variable in size to mimic natural patterns and features found in landscapes.”* Forest Protocol at 3. In fact, forest clearcuts do not mimic natural disturbance, and we know of no scientific basis for asserting that an irregular shape or variation in size in any way mitigates the negative ecological impacts of clearcutting. The directive “to mimic natural patterns and features found in landscapes” remains ambiguous and unenforceable, and begs for clarification or deletion.

Definition: Subchapter 1.2(a)(22): Even-aged Management

“By convention, the spread of ages does not differ by more than 20 percent of the intended rotation.” Draft guidance at 6.

In this statement, the phrase “by convention” makes it unclear whether this is clarifying a requirement in the Forest Protocol or simply describing a common practice.

“Some harvests not considered evenaged management may result in post-harvest conditions that fall below the stocking requirements of subchapter 3.1(a)(4)(D), e.g. variable retention harvest or rehabilitation silviculture. If the state agency with jurisdiction over the project area identifies the practice as anything besides even-aged management, even-aged management requirements will not apply.” Draft guidance at 6.

This section negates the stocking requirements as they relate to a project in any state that defines even-aged management differently from California, and contradicts ARB’s previously stated intention to “encourage the adoption of California’s rigorous standards by other locations”

(again, putting aside the basis for referring to California’s forest management regulations as “rigorous”).

Subchapter 3.1(a)(4)(C): Adjacency Requirements for Even-aged Management

“The California Forest Practice Rules allow adjacent even-aged regeneration harvests to occur if the prior even-aged regeneration harvest has the dominant and codominant trees averaging 5 years of age or average at least 5 feet tall and 3 years of age from time of establishment on the site. Either condition conforms to the protocol requirement of 5 feet tall or 5 years of age since time of establishment on the site.” Draft guidance at 10.

The requirement that clearcut areas must be populated by 5-foot-tall saplings before the adjacent forest can be clearcut cannot qualify as “rigorous standards” in our perspective. To be clear, this provision allows that a second area may be clearcut immediately adjacent to an existing clearcut in either of the following scenarios: 1) after five years, regardless of the height and stocking level of the regeneration, or 2) at any point at which the clearcut is replanted with 5-foot-tall saplings, perhaps as soon as the next year following the clearcut. This provides no protection for forest ecosystem integrity or the value or connectivity of wildlife habitat.

Subchapter 8.1(b)(2)(E): Verifying Even-aged Management Buffer Areas

“Buffer requirements only apply to even-aged regeneration harvest units until adjacency requirements (subchapter 3.1(a)(4)(C)) have been satisfied. The buffer area no longer applies and harvesting an adjacent unit using a regeneration harvest method is permissible once the adjacency requirements have been satisfied. The buffer and adjacency requirements only apply to land within the project area owned by the OPO.” Draft guidance at 18 and 19.

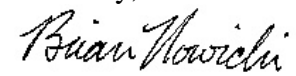
The explicit limitation of buffer and adjacency requirements to lands owned by the project owner serve to encourage projects to locate clearcutting units directly along property lines in order to avoid those restrictions to the greatest extent possible.

Conclusion

The Center for Biological Diversity urges the Air Resources Board to develop ecological standards for the Forest Protocol that would protect forest ecosystems and wildlife habitat from the damaging impacts of clearcutting and even-age management projects that profit from the sale of carbon offset credits into California’s cap-and-trade program. California’s efforts to reduce our greenhouse gas emissions should not rely on the most damaging forest management practices in California and nationwide and come at the expense of forest ecosystems and wildlife habitat. Instead, management that promotes these important environmental co-benefits should be encouraged and rewarded.

Thank you for your consideration of these comments. Please contact me with any questions or response.

Sincerely,

A handwritten signature in black ink that reads "Brian Nowicki". The signature is written in a cursive style with a large, prominent initial 'B'.

Brian Nowicki
Center for Biological Diversity
(916) 201-6938
bnowicki@biologicaldiversity.org