



June 4, 2015

Via electronic submission at:

http://www.arb.ca.gov/lispub/comm/bcsbform.php?listname=capandtradeprf14&comm_period=1

Greg Mayeur, Manager
Climate Change Program, Operations Section
California Air Resources Board
1001 I Street, Sacramento, CA 95812

Re: Comments Regarding the Proposed 15-day Modifications to the U.S. Forest Protocol

Dear Mr. Mayeur:

Please accept these comments submitted on behalf of the Center for Biological Diversity regarding the proposed 15-day modifications to the Compliance Offset Protocol for U.S. Forest Projects ("Forest Protocol") as part of the Amendments for the California Cap On Greenhouse Gas Emissions and Market-Based Compliance Mechanisms. These comments are submitted in response to the additional changes included in the 15-day modification released on May 20, 2015.

When ARB proposed updates to the Forest Protocol in October 2014, the updates included some modest steps toward addressing the impacts of clearcutting in Forest Protocol projects.¹ Specifically, the proposed changes included requirements for buffer areas around clearcutting units, and set clear thresholds for stocking level reductions. In February 2015, ARB announced that they were revising their proposal, eliminating even these limited changes.² The revisions presented at the February workshop instead proposed to apply nationwide some of the minimum legal requirements that apply to clearcutting and other even-age management in California. As this reflects the most damaging and intensive industrial logging practices in California, with all the associated impacts to forest ecosystems and wildlife habitat, this continues to represent a setback for forest conservation standards.

¹ The proposed changes included the following new requirements for Improved Forest Management Projects, which include commercial logging, including clearcutting: "(4) If harvesting occurs within the project area, meet the following harvest unit size and buffer area requirements: (A) Harvest units that have less than 50 square feet of basal area retention must not exceed 40 acres in total area; (B) Open canopy harvest units, harvest units with an area of 3 acres or greater that have less than 50 square feet of basal area retention, must have a buffer area of forest vegetation containing at least 50 square feet of basal area retention must surround the harvest unit. The width of the buffer area must be a minimum of the area of the harvest unit, rounded up to the nearest acre, multiplied by 40; and (C) Cuts on harvest units that occurred prior to the project commencement date are exempt from subchapters 3.1(a)(4)(A) and 3.1(a)(4)(B) provided that no new harvests occur in the previously cut harvest unit or would-be buffer area until the harvest unit cut prior to project commencement meets the requirements of subchapter 3.1(a)(4)(A)..." <http://www.arb.ca.gov/regact/2014/capandtradeprf14/capandtradeprf14notice.pdf>

² http://www.arb.ca.gov/cc/capandtrade/meetings/022015/workshop_presentation.pdf

The proposed 15-day modifications include specific changes that could weaken the Forest Protocol even further, primarily with respect to clearcutting and even-age management. The following comments are directed to those proposed changes, with the intention of clarifying or strengthening those provisions.

(16) “Clearcutting” means a regeneration method involving the removal of a stand in one harvest. Regeneration after harvesting shall be obtained by direct seeding, planting, sprouting, or by natural seed fall. When practical, clearcuts shall be irregularly shaped and variable in size to mimic natural patterns and features found in landscapes. Page 3.

Section 1.2 includes a new definition of clearcutting. To more accurately reflect the operational reality of commercial timber operations, this definition should be expanded to clarify that removing a stand does not mean removing every single tree. Under the definition proposed in the 15-day modification, a harvest that removes every tree but one would not qualify as a clearcut, although most clearcuts leave some residual trees for various reasons other than shelterwood or seed tree. One option would be to clarify that clearcutting means a regeneration method other than a seed tree or shelterwood cut involving the removal of most or all of a stand.

In addition, the sentence regarding irregular shape is inadvertently misleading and counterproductive. Forest clearcuts do not mimic natural disturbance, and it is unsupported and highly misleading to imply they can. 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. While a single, smaller clearcut unit on its own damages less forest than a larger one, this assumes the timber operator does not create more clearcut units as a result. Furthermore, the directive "to mimic natural patterns and features found in landscapes" is ambiguous and unenforceable, and there is no basis for this approach. This requirement would need to be defined in quantitative measures to have practical meaning. We strongly recommend eliminating the sentence entirely, or at least removing the implication that forest clearcutting can mimic natural patterns and features.

(20) “Countable Tree” means a tree that must be in place at least two growing seasons and must be live and healthy. Page 4.

Section 1.2 includes the new term "countable tree" for the purposes of determining stocking levels for regeneration in even-aged management (pages 21-22). Because this definition is relevant primarily to the restocking requirements in Section subchapter 3.1(a)(4)(D), it deliberately excludes standing dead trees. This leaves the retention of standing dead trees subject only to the minimal requirements of Section 3.1. This is generally one metric ton of carbon per acre or 1% of standing live tree carbon stocks, in standing dead tree carbon stocks, whichever is higher.

Including standing dead trees in the stocking requirements is one way that the Forest Protocol could encourage the retention of large, standing dead trees, which are critical for wildlife. This would potentially be very positive for wildlife habitat even if it resulted in marginally lower stocking levels of live trees. Furthermore, counting large (e.g. greater than 12

inches dbh) standing dead trees may not have any negative impact on stocking of live trees, as projects are likely to manage for high live tree densities to maximize carbon stocks.

(22) “Even-Aged Management” means a silvicultural system that includes clearcutting, seed tree, and shelterwood regeneration methods. Any harvest activity that does not meet the stocking requirements of subchapter 3.1(a)(4)(D) is also considered even-aged management, unless a state agency with jurisdiction over the project area identifies the practice as uneven-aged management. management where the trees in individual forest stands have only small differences in their ages (a single age class). By convention, the spread of ages does not differ by more than 20 percent of the intended rotation. Page 5.

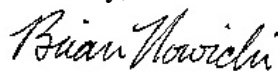
Deferring to individual states' definitions of even-aged and uneven-aged management means that the same forest project would be subject to different standards under the Forest Protocol, depending on which state a project is located in. Specifically, the stocking requirements of subchapter 3.1(a)(4)(D) would not apply, for example, if a state were to define shelterwood cuts as uneven-aged management.

Conclusion

The Center for Biological Diversity urges ARB to develop ecological standards for the Forest Protocol to protect forest ecosystems and wildlife habitat from the damaging impacts of clearcutting and even-age management. 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,



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