

Controlled Wood National Risk Assessment – Second Public Consultation Comment Form

Please submit comments to Amy Clark Eagle (a.eagle@us.fsc.org) by Wednesday, February 28, 2018

Name	Daniel Simonds
Organization	MixedWood LLC
Phone	207.864.5025
Email Address	dan@mxwood.com
Date	30 January 2018

PLEASE NOTE: This draft of the risk assessment was developed with a focus on transparency, including detailed descriptions of rationale for risk designation decisions and sources of information used. Commenters are asked to provide similar evidence when requesting changes to the risk assessment. If expert opinion is used as source of information, please provide a name, affiliation, contact information and summary of qualifications for each expert.

Consultation Questions

General

1. Are the FSC Regions an effective coarse-level framework for geographically differentiating risk designations? Or are there other criteria that should be considered to develop better regional boundaries for the purposes of the US National Risk Assessment?

Yes. It is useful and appropriate that this analysis applies a rather course-filter approach. The existing and well-understood FSC-US Regions provide enough scope for regional variations, while remaining practical and straightforward to use.

2. The primary antitrust concern expressed during the first public consultation focused on a requirement for supplier agreements. With the removal of this requirement, proposed landscape scale risk designations (that do not require information about specific origin of materials) and a stated intention to identify multiple potential mitigation actions at Controlled Wood Regional Meetings (leaving certificate holders to decide individually which to implement), have the significant antitrust concerns been resolved?

Maybe. It is not realistic to describe antitrust concerns as being “resolved”. A better objective is to effectively manage and mitigate the legal risks of participation. The framework proposed here appears likely to achieve this objective. Its success will depend largely upon the output of the proposed Regional Meetings and the specifics of the Mitigation menu options.

3. We’ve received comments that FSC documents formatted with tables and very small text are difficult to review, understand and use – this is a primary reason we included the Annexes with content for Categories 2, 3 and 4. The annexes also allow us to provide the guidance, definitions, context information and some additional details that we believe will assist readers in understanding our rationale for risk designations. However, having

similar content in both the main template document and annexes could be perceived to add unnecessary complexity to the document. Does it make sense to include the Category 2, 3 and 4 Annexes in the way that we have?

Yes. It is probably unrealistic to expect the US-NRA to be a general interest publication. Rather, it is a narrowly focused policy document; designed for a specific purpose by a rather limited group of users. In this context, the use of Annexes is helpful in maintaining a practical limit to the central text.

Category 3 – High Conservation Values

4. Please provide feedback on the methodology used to identify HCV 1 individual species. Specifically:
- Is there a different process that would have resulted in a better alignment of species identified with the definition for HCV 1?

No. CBA's are an appropriate – if imperfect – mechanism for assessing HV1 risks.

- Are there other available datasets that would provide a better framework for identifying HCV 1 species for this risk assessment?

Unsure. See note above.

- Are there different criteria that could be used with the NatureServe dataset which would have resulted in a better alignment of species identified with the definition for HCV 1?

Perhaps. See note above.

5. Are there other available datasets that could replace or augment the data used for identification of HCV 2 (Globally, regionally or nationally significant landscape level forests) to better align the areas identified with the definition for HCV 2 in a consistent manner across the assessment area?

Perhaps. This sort of analysis is unavoidably subjective. The evaluation applied here is reasonable and sufficient for its purpose.

6. Please provide feedback on the methodology used to identify HCV 3 (rare, threatened or endangered ecosystems, habitats or refugia). Specifically:
- Do the HCV 3 identified (Old Growth, Roadless Areas and Priority Forest Types) together address the rare (forested) ecosystems in the US that are significant at a global, regional or national scale? If not, please provide rationale and sources of information that support your response.

The decision to apply a “specified” risk designation for risk to Old Growth forests only on publicly-owned forests in the west is somewhat troubling. The statement “Forest management policies and the resulting activities are threats to old growth forests” is highly subjective and potentially misleading. Discussion within the “threat assessment” section points to the very complex serious of land management policy challenges facing the western regions. The relevance

of wood procurement (i.e. for controlled wood) is not clear at all. The fact that primary threats to Old Growth forests might be caused by inactivity by land managers is largely ignored.

By definition, public land managers in the US are directly accountable to their respective branches of government, and ultimately to the public at large and the political system. This policy format is far from ideal, but far more broadly based and responsive than the FSC system.

- Are there other available datasets that could replace or augment the data and information used for identification of HCV 3 to better align the areas identified with the definition for HCV 3 in a consistent manner across the assessment area?

Perhaps. See note above.

- Are you aware of any additional information sources that can provide information on the threats to public land Old-Growth from forest management activities?

No.

7. Please provide feedback on the methodology used to identify and assess HCV 4. Specifically:

- Are you aware of any additional datasets or information sources that can provide information regarding the location of HCV 4 (critical ecosystem services) and threats to HCV 4 from forest management activities?

No.

- Are you aware of any additional research that has assessed compliance with and/or effectiveness of forestry Best Management Practices (BMPs)?

Yes. The Sustainable Forestry Initiative (SFI) program has been actively promoting, monitoring, tracking, and reporting BMP implementation and effectiveness for many years. Many (perhaps most) of their engaged network of land management and wood procurement companies are also engaged member and stakeholders of the FSC program.

8. Are you aware of any additional datasets or information sources that can provide evidence of the presence of HCV 5 (sites and resources fundamental for satisfying the basic necessities of local communities or indigenous peoples) within the assessment area?

No.

9. Please provide feedback on the HCV 6 risk assessment. Specifically:

- Are you aware of any evidence from the last 15 years of threats from forest management activities to Native American sacred places or sites within the assessment area?

No.

- Are you aware of any evidence of the existence of cultural values critical to local communities within the assessment area? And if so, is there any evidence of threats to those values from forest management activities?

No.

10. Are you aware of any research that has assessed the effectiveness of protective designations in the assessment area?

No.

11. After reading the supplementary document that describes the Controlled Wood Regional Meetings in greater detail, please provide feedback on the Category 3 Control Measures. Specifically:

- Are you supportive of the proposed Category 3 Control Measures? If not, why not?

Supportive, yes, but disappointed and frustrated, on several topics:

- **“educational materials”** – it is disingenuous to ask Certificate Holders (CH) to agree to distribute promotional materials that have not yet been produced. Will CH’s be accorded the opportunity to review & comment on drafts? Will CH’s be allowed to edit or amend the material? Even assuming good faith on all sides, there may be sincere disagreements about content, style, and messaging. Will materials actively promote FSC, or simply address the specific topics associated with HCV/conversion risk?
- **“educational materials”** – the SFI program has required outreach to suppliers and landowners on similar and related topics since its inception. Distribution systems and program support are fully established, funded, and stable. This initiative looks suspiciously like “re-inventing the wheel”.
- **“clear statements”** – untold 10’s of thousands of “statements”, declaring an agreement to respect and avoid the 5 FSC CW categories, have been circulated, co-signed, filed, and audited for over 15 years – with no discernable effect on sustainability. Is it not time to try something new?
- **Regional Meetings** – the simple requirement to engage (attend or follow) in a program of regional CW dialogs is likely to be healthy for the program over time. The proposed format, however, appears to be excessively aspirational, and raises some vexing questions (see below).
- **Regional Meetings** – stated objectives are extremely broad and potentially contradictory (list below). Success of some objectives appears essential for program implementation. Others are merely desirable.
 - information sharing
 - relationship building
 - interactive dialog
 - work together to identify effective and practical mitigation actions
 - not...asked to agree or decide on one specific mitigation action
 - working toward a set of multiple potential actions
 - provide information and feedback
 - assess the effectiveness of control measure implementation

- **Regional Meetings** – the meeting format includes some key decision-making in order to agree on the required “set of actions” that will be mandatory for CH’s to complete. No format or protocol for this decision-making is proposed however. Given the hoped-for diversity of these meetings, consensus may be challenging. Will the decisions be subject to voting? Will CH unable to attend be accorded a vote? Other stakeholders (SH’s)?
- **Regional Meetings** – the meetings will be attended by **3 types of participants**, with very different perspectives and priorities. Even assuming courtesy and good intentions, this invites contention over the key decisions required:
 1. **Certificate Holders (CH)** who will bear the burden of implementing actions identified by the body, with a strong incentive for simplicity, efficiency, and stability.
 2. **Other stakeholders** who will bring a variety of social and environmental interests to the discussion, but who will lack a practical stake in the outcome.
 3. **FSC Staff** who will bear the significant burden of organizing and facilitating, but are also likely to have strong incentives towards certain kinds of outcomes.
- **“Implemented Actions”** – the presumed expectation that mitigation actions will be meaningful, practical, and significant is worthwhile. The fact remains, however, that nothing is yet proposed. It is difficult to provide support for something that does not yet exist.

- Do you support the proposed contingency plan for situations where mitigation actions are not successfully identified at the meetings? Do you have any suggestions to improve the contingency plan?

Yes. Given the practical difficulty of achieving practical and focused output from the poorly-scope Regional Meetings, it appears likely that final decisions will need to be delegated to another body.

This mechanism appears only in the accompanying Regional Meeting document, not referred to at all in the NRA. This seems unwise and likely to generate uncertainty about normative requirements.

The proposal to form a focused working group (Contingency Plan – 1.a) is preferred. But it will be essential to ensure that this group represents the wide array of companies who will ultimately face the challenge of implementing the actions once they are identified. This group should NOT rely primarily on technical staff from large paper companies and national NGO’s. These folks are unlikely to have the practical appreciation of implementation challenges and ongoing work that should be given first consideration.

The FSC-US Board of Directors are correctly identified as final decision-makers for all the NRA content. It seems more likely than not that final decisions on mitigation actions will eventually fall to them again.

- Are there specific stakeholders (local, regional, national or global) that you believe will be essential participants for successful Controlled Wood Regional Meetings, and/or that would be valuable participants and should be encouraged to attend?

Yes. Recruiting significant representation from the small and medium-sized companies who will be implementing the NRA and CM’s is essential for the success of this program. This will be challenging to achieve and maintain, but consensus from this group of practitioners may be the single best way to be successful.

Category 4 - Conversion

12. Do you have suggestions for an alternative proxy (other than urbanization and population growth) that could be used to more accurately identify places where there is a risk (that is higher than low risk) of materials entering the FSC supply chain from places where forests are being converted to plantations or non-forest use?

No. The practical assumption that forest conversion is linked primarily to urbanization is not likely to be contested. The practical implications, however, are less than clear.

The NRA correctly notes that forest loss through conversion – broadly speaking – is not a significant problem in the US. The decision to focus on the vexing and complex issues of urban sprawl in specific regions is likely to prove a mistake.

The NRA fails to convincingly link forest loss through conversion to anything that is within the influence of commercial land managers or wood procurement organizations. Without this link, the FSC network is left searching for ways to influence the growth of urban centers like Atlanta, Durham, and Los Angeles. This is neither useful nor practical.

13. Are you aware of any additional (and affordable) datasets or information sources that could replace or augment the data used to identify places with a higher likelihood of forest conversion occurring?

No.

14. After reading the supplementary document that describes the Controlled Wood Regional Meetings in greater detail, please provide feedback on the Category 4 Control Measures. Specifically:

- Do you have suggestions of specific mitigation actions that certificate holders could potentially take, that are not repetitive of what may already be taking place, that would help to keep forests from being converted to plantations or non-forest use? These are the kinds of actions that would need to be identified at the Controlled Wood Regional Meetings and then be implemented by certificate holders under the proposed control measures. This information will help assess the potential for effective risk mitigation resulting from implementation of the proposed Category 4 control measures.

No. See notes above.

- Do you believe that the above actions will help to reduce the risk of sourcing materials from areas of forest conversion? In the short-term? In the long-term?

No. See notes above.

- Are there specific stakeholders (local, regional, national or global) that you believe will be essential participants for successful Controlled Wood Regional Meetings, and/or that would be valuable participants and should be encouraged to attend?

Yes (repeated from Cat. 3). Recruiting significant representation from the small and medium-sized companies who will be implementing the NRA and CM's is essential for the success of this program. This will be challenging to achieve and maintain, but consensus from this group of practitioners may be the single best way to be successful.

Summary

15. Do you support the risk designations as proposed in the Draft 2-0 Controlled Wood National Risk Assessment for the Conterminous United States?

- a. Yes, completely
- b. Yes, with minor adjustments
- c. No, major changes are needed

If (b) or (c) is indicated, please identify what specific adjustments or changes are needed

Category 1, 2, & 5: appropriate and not controversial.

Category 3: Conclusion for HCV3 in the west is ill-conceived and unnecessary.

Category 4: Conclusion is reasonable and well documented. Consequence is poorly aligned with FSC objectives and unlikely to result in positive results.

16. Do you support the control measures for Category 3 (HCV) as proposed in the Draft 2-0 Controlled Wood National Risk Assessment for the Conterminous United States?

- a. Yes, completely
- b. Yes, with minor adjustments
- c. No, major changes are needed

If (b) or (c) is indicated, please identify what specific adjustments or changes are needed

See notes regarding HCV3 in questions 6 & 15 above.

17. Do you support the control measures for Category 4 (Conversion) as proposed in the Draft 2-0 Controlled Wood National Risk Assessment for the Conterminous United States?

- a. Yes, completely
- b. Yes, with minor adjustments
- c. No, major changes are needed

If (b) or (c) is indicated, please identify what specific adjustments or changes are needed

The required statement in CM 4a is ill-conceived and unnecessary. Its premise (that big clearings cause more forest loss than small clearings) is unsupported and suspicious. Circulating unsupported declaratory statements is likely to undermine, rather than support, more broad-based education efforts.

