

# Workshop on Forest Project Protocol, Version 3.1

Guidance on Interpreting  
Requirements under Section 6.2.1.1



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# Welcome and Introductions

# Decision Making Process



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- March 18 – Conduct public workshop on staff proposal and alternatives.
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*Once approved, staff will then prepare revisions to the Forest Project Protocol to incorporate this decision and release an updated version.*



# Agenda Review & Meeting Format

- Welcome & Introductions
- Agenda Review
- Background and Context
- California Forest Practice Rules
- Proposals: Staff and Alternative
- Public Discussion
- Summary and Next Steps



# Workshop Purpose

*To bring stakeholders, the public and Reserve staff together to discuss and explore options on how the Maximum Sustained Production of the California Forest Practice Rules are interpreted for the purpose of determining a baseline for forest projects under the Reserves' Forest Project Protocol, Version 3.1, Section 6.2.1.1.*

*This public workshop and other public comments will inform the Reserve staffs' recommendation and the Reserve Board's final decision.*



# Rules of Engagement

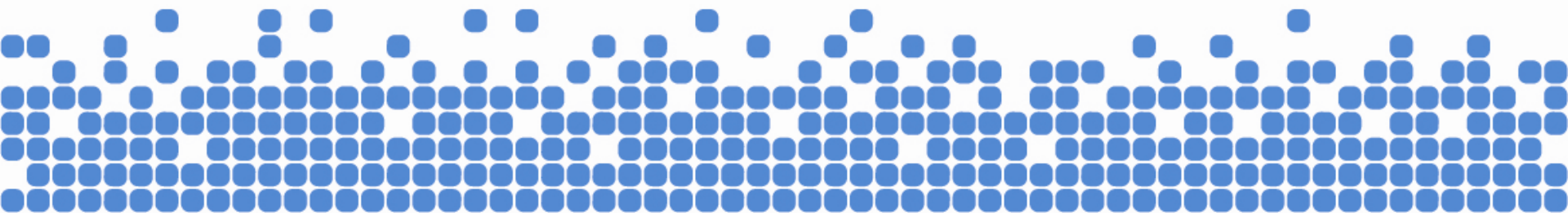
- **VALUE:** All points of view have value. Your job is to understand, not necessarily agree.
- **COURTESY:** Use common conversational courtesy. Listen & disagree respectfully.
- **SHARE THE AIR:** Share the air space so that everyone can contribute.
- **HONOR TIME:** Stay on subject; be concise.
- **SIDE CONVERSATIONS:** Take outside the room.
- **SILENCE CELL PHONES:** Silence electronics, especially cell phones.



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# Webinar Participation Guide

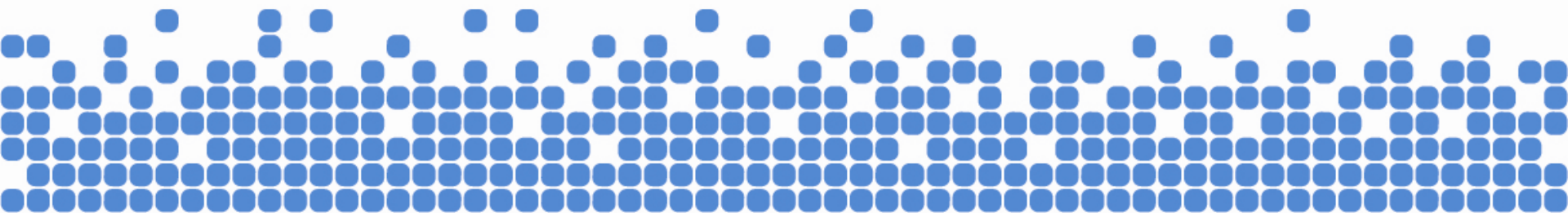
- Speaker slides will be on Webinar.
- See additional Workshop documents:  
[www.climateactionreserve.org](http://www.climateactionreserve.org)
- Click on Program Announcements, March 18 (third entry)
- Cannot speak during workshop, BUT
- You may send questions and comments through Webinar. We will do our best to integrate these into the discussion.
- Know that your comments and questions will receive full staff attention.
- Susan Sherry will be facilitating workshop and managing in-room and off-site comments.
- If you are experiencing real time difficulties with the Webinar, call 1-213-891-1444 and dial '2' for English then '0' for the Office Manager.





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# Forest Project Protocol 3.1 Baseline Interpretation Background and Context







# Protocol Development

- Forest Project Protocol, Version 2.1 adopted by ARB in October 2007
  - Directed the Reserve to consider further revisions to allow greater participation from working forests and public lands
  - The Reserve also sought to expand geographic application and improve technical aspects
- New workgroup convened in November 2007



# Public Process

- Stakeholder Workgroup
- 5 Public Workshops
- 2 Public Review Drafts
- ~300 Pages Written Comments
- Adopted by Reserve Board on September 1, 2009



# Improved Baseline Estimation

- Standardized *Improved Forest Management* baseline applies throughout U.S. private lands
- Baseline General Definition:
  - “The level of GHG emissions, removals, and/or carbon stocks at sources, sinks, or reservoirs affected by a Forest Project that would have occurred under a Business As Usual scenario.”
- “Business As Usual” General Definition:
  - “The activities, and associated GHG reductions and removals, that would have occurred in the Project Area in the absence of incentives provided by a carbon offset market.”

# Improved Baseline Estimation



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- For each project, baseline is modeled by taking into account:
  - Common Practice, as represented by FIA mean (Section 6.2.1)
  - Legal Constraints (Section 6.2.1.1)
  - Financial Constraints (Section 6.2.1.2)

# Legal Constraints

## 6.2.1.1. Consideration of Legal Constraints

*In modeling the baseline for standing live carbon stocks, the Forest Owner must incorporate all legal requirements that could affect baseline growth and harvesting scenarios. The standing live carbon stock baseline must represent a growth and harvesting regime that fulfills all legal requirements. Voluntary agreements that can be rescinded, such as voluntary Habitat Conservation Plans (HCPs), Safe Harbor Agreements, rental contracts, and forest certification are not legal requirements.*

*Legal requirements include all laws, regulations, and legally-binding commitments applicable to the Project Area at the time of the project's initiation that could affect standing live carbon stocks. Legal constraints include:*

*1. Federal, state/provincial, or local government regulations that are required and might reasonably be anticipated to influence carbon stocking over time including, but not limited to:*

- 1. Zones with harvest restrictions (e.g. buffers, streamside protection zones, wildlife protection zones)*
- 2. Harvest adjacency restrictions*
- 3. Minimum stocking standards*

*2. Forest practice rules, or applicable Best Management Practices established by federal, state, provincial or local government that relate to forest management.*

*3. Other legally binding requirements affecting carbon stocks including, but not limited to, covenants, conditions and restrictions, and other title restrictions in place prior to or at the time of project initiation, including pre-existing conservation easements and deed restrictions, excepting an encumbrance that was put in place and/or recorded less than one year prior to the project start date, as defined in Section 3.6.*



# Interpretation Question

- December 2009
  - Reserve approached by a verifier seeking clarification on how to interpret California Forest Practice Rules requiring Maximum Sustained Production
- January 2010
  - Reserve consults with CalFIRE and drafts preliminary internal guidance document
- February 2010
  - Reserve Board instructs staff to hold workshop to solicit public input and alternative proposals
  - Reserve staff preliminary decision posted on February 24





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# CAR WORKSHOP-Forest Practice Act and Regulatory Framework for addressing Maximum Sustained Productivity

March 18, 2010 Sacramento, CA

Bill Snyder, California Department of Forestry and Fire Protection

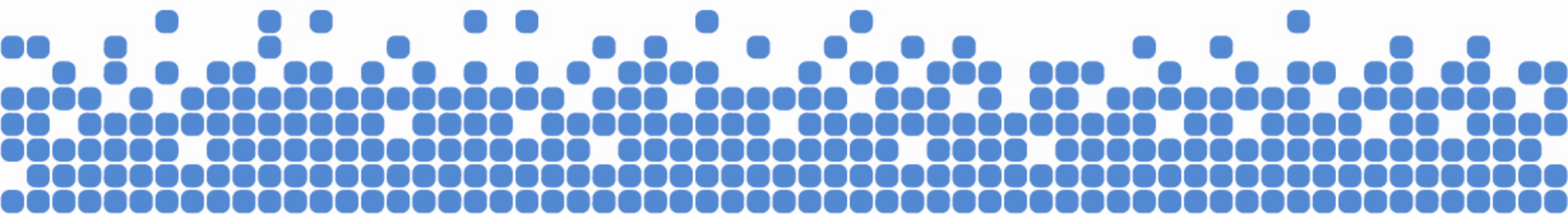




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# Key Acronymns

- **MSP**-Maximum Sustained Productivity (14 CCR 913.10, 913.11)
- **LTSY**-Long-Term Sustained Yield (14 CCR 895.1)
- **SYP**-Sustained Yield Plan [14 CCR 913.11(b), 14 CCR Article 6.75]
- **NTMP**-Non-industrial Management Plan (14 CCR Article 6.5)
- **FPRs**-Forest Practice Regulations
- **CCR**-California Code of Regulations



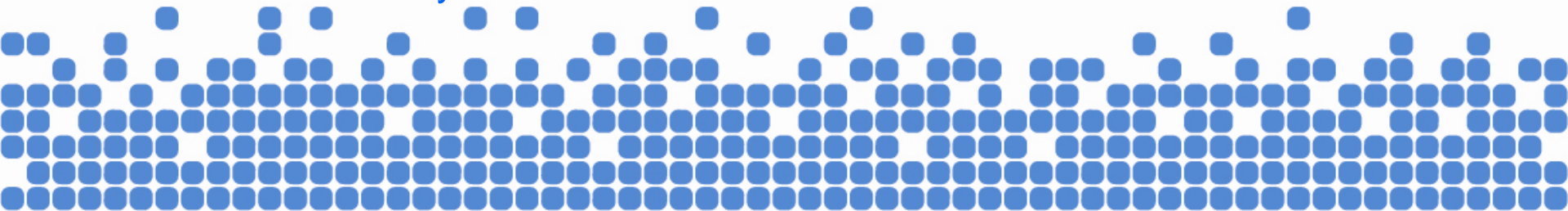




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# LTSY Requirements for Timberland Ownerships Greater than 50,000 acres

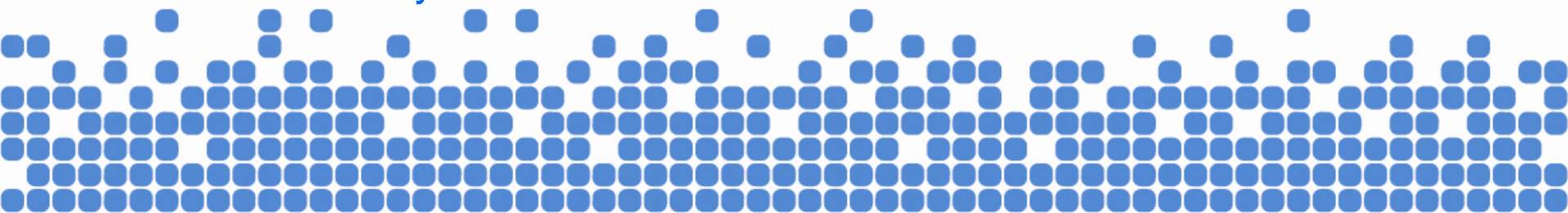
- MSP to be demonstrated through an Option “a” [14 CCR 913.11(a)] or and Option “b” [14 CCR 916 913.11(b)]
- MSP is demonstrated through development of a LTSY plan which reflects:
  - Yield of timber products specified by landowner
  - Inventory and growth on inventory at the end of a 100 year planning period.
  - Reflects constraints that limit the yield and harvest. Examples of constraints include:
    - Regulatory requirements (WLPZs, unstable areas, wildlife)
    - HCPs, NCCPs or other applicable plans.
    - Legally binding encumbrances such as conservation easements
    - Voluntary measures





# THP Content and Review

- MSP demonstration through development of a LTSY plan does not authorize timber operations.
- THPs submitted to the Department for review must demonstrate MSP.
- THPs approved must:
  - Demonstrate consistency with the MSP/LTSY Plan with respect to:
    - Silvicultural application
    - Appropriate disclosure and mitigation of site specific conditions
    - Consistency with MSP\LTSY modeling.
  - CAL FIRE will withhold decision on a plan where this consistency is not demonstrated

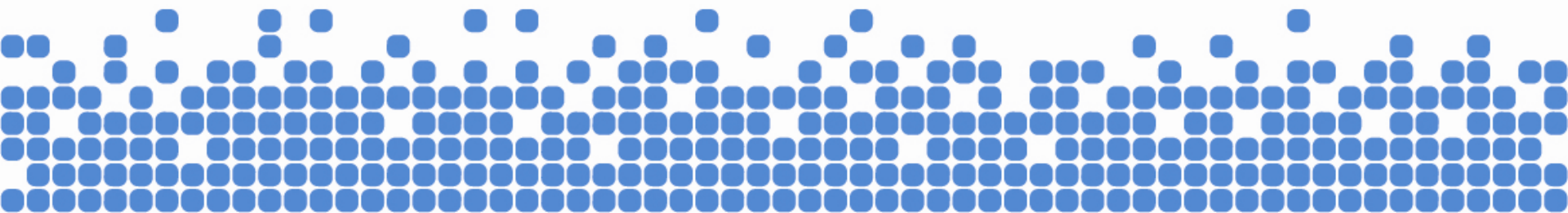




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# Long Term Sustained Yield Plan Revisions

- Long Term Sustained Yield Plans can be revised at any point by a landowner for any number of reasons including:
  - Change in management direction
  - Change in ownership
  - Reduction in land base acreage
  - Addition of significant new acreage to land base
  - Change in regulatory constraints
  - Significant change in conditions
  - Voluntary change in constraints (HCP, NCCPs, Conservation Easements)

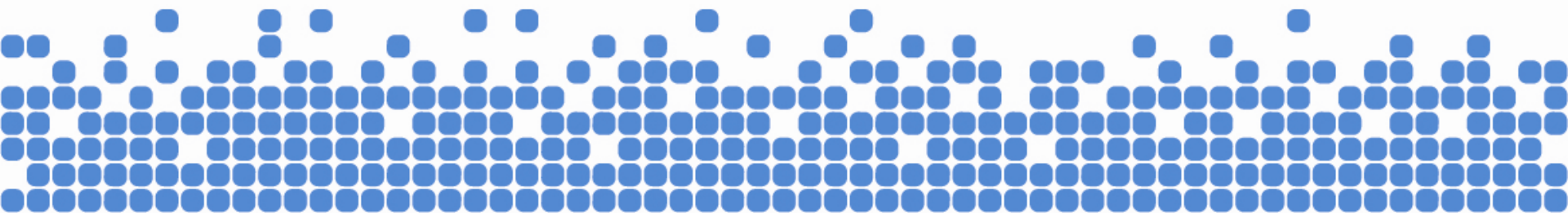




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# NTMP Growth and Yield

- NTMPs are available to timberland ownerships of less than 2500 acres.
- NTMPs can develop Long Term Sustained Yield Plans Using Option “b” or demonstrate sustainability through balancing of growth and harvest per the FPRs.
- NTMPs are not legally binding and can be cancelled by the landowner or the Department
- NTMP growth and yield content is specified by rule [14 CCR 1090(g),(h),(i) and (j)]





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# Reserve Preliminary Guidance on Interpretation of California Forest Practice Rules





# Determination

- The Reserve considers MSP documents to be a legal commitment that must be recognized at the time a project is submitted
  - “Any plan that has been approved by Cal Fire for utilizing Option “a” or Option “b” to demonstrate long-term sustained yield (LTSY) and maximum sustained production (MSP), and that is in effect at the time the forest carbon project is initiated, must be reflected in the modeling of an Improved Forest Management project’s baseline carbon stocks.”



# Rationale

- Per State law, MSP documents must demonstrate a harvest level defined by the forest owner that can be permanently sustained
- Timber Harvest Plans (THPs) must be consistent with the objectives of the MSP document and support the long-term objectives of the plan.
- Enforceability: If the THPs are not consistent with the MSP document, harvesting operations can be suspended until they either comply with the MSP document or the MSP document itself is revised and approved.
- Section 6.2.1.1 of the FPP that “Legal requirements include all laws, regulations, and legally-binding commitments applicable to the Project Area ***at the time of the project’s initiation*** that could affect standing live carbon stocks”



# Alternative Proposal

Mike Jani  
Chairman, California Forestry Association  
President, Humboldt Redwood Co., LLC



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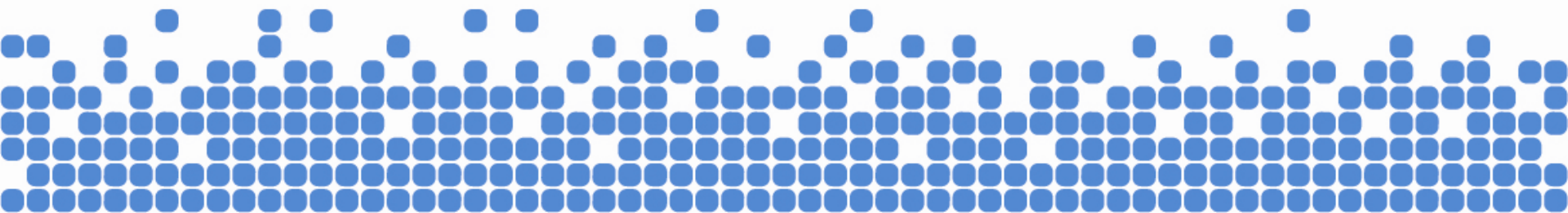


# Background



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- ① The CFA/PFT Coalition of stakeholders fully support the Legal Constraints provisions of the Forest Project Protocol (Section 6.2.1.1).
- ① But, the CAR draft legal constraints guidance needs to be amended to distinguish between legal constraints under CA law and voluntary actions by forest owners.
- ① Under CA law, the only document that provides any forest owner a vested right to harvest and a legally enforceable responsibility is the Timber Harvesting Plan (THP).
- ① At a minimum, attached to a THP are several addendums, including a cumulative impacts analysis addendum, an archeological resources analysis addendum, and a demonstration of long-term sustained yield analysis pursuant to a Maximum Sustained Yield (MSP) addendum - often referred to as an “Option A” analysis.
- ① While an “Option A” analysis is a mandatory addendum to a THP for larger landowners, the level of long-term sustained yield is voluntarily established by the landowner, and can be adjustable from THP to THP.
- ① **No addendum (including an Option A analysis) is legally binding unless/until it is attached to an approved THP, nor is it binding on future landowner activities not mandated by the current THP.**

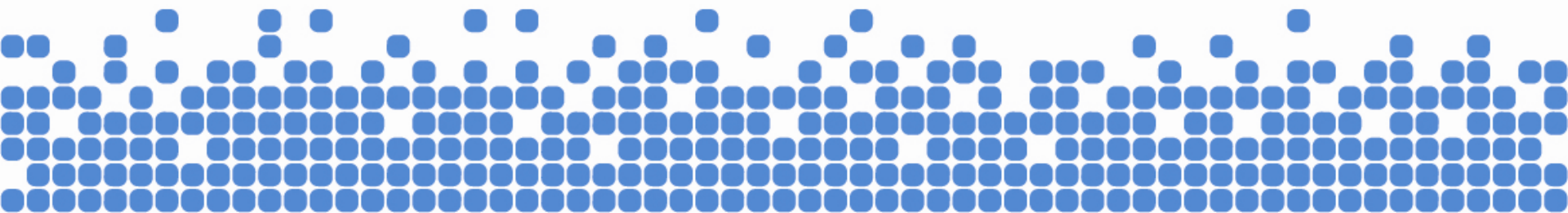




# Summary of Recommended Revisions to CAR's Preliminary Legal Constraints Guidance

Given the previously stated background:

- ⦿ Currently active Timber Harvesting Plans within a proposed project area at the time of project initiation must be modeled in the baseline to reflect the silviculture and all those silvicultural treatments associated with those THPs since they are legally binding commitments that could affect standing live carbon stocks.
- ⦿ The remainder of the project area should be modeled to reflect compliance with all forest practice rules and other applicable laws, regulations and legally binding commitments that could affect standing live carbon stocks.





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