

June 27, 2024

To: Agriculture Marketing Service/U.S. Department of Agriculture

Re: Doc. No. AMS-LP-24-0012/Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Program

The Institute for Agriculture and Trade Policy, Land Stewardship Project, Missouri Rural Crisis Center, Iowa Citizens for Community Improvement, Food and Water Watch and the National Family Farm Coalition welcome the opportunity to respond to the USDA's request for information for a proposed Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Program.

When the Growing Climate Solutions Act was debated in Congress, our organizations opposed its passage and signed onto a letter with over 220 groups in opposition.¹ We believe voluntary carbon markets are fundamentally inconsistent with the latest climate science. For example, the Intergovernmental Panel on Climate Change (IPCC) concluded in its Sixth Assessment report that fossil fuel emissions are not offset by land-based emissions sequestration on a one-to-one ratio.² Indeed, peer-reviewed climate science modelers report an accelerating asymmetry between fossil fuel emissions and sequestration efficacy.³ Additionally, carbon-related offsets, such as temporary sequestration, are not consistent with non-CO₂ emissions (methane and nitrous oxide) with different timescales and intensity. As a result of these climate science findings, USDA must disapprove of any protocol or technical assistance provider that states or implies in its contractual or marketing language that soil carbon sequestration projects "offset" or "manage" fossil fuel derived greenhouse gas emissions.

Unregulated voluntary markets also pose legal and economic risks to farmers that we discuss in this comment. Additionally, voluntary carbon markets have experienced widespread fraud for more than a decade, with no signs of abatement. A protocol or third-party certifier should not be eligible for listing while it is in litigation with either carbon credit buyers, intermediaries or primary producers of the carbon credits.

As USDA develops its proposed program, we urge the Department to hold protocols and certifiers to a high, rigorous standard that prevents proliferation of the many weaknesses present in voluntary carbon markets. As a governmental institution, the USDA has a responsibility to ensure farmers' rights and interests are protected and that these markets are not deceptive or misleading in claiming to benefit the climate. Listing protocols or third-party certifiers within the USDA program effectively signals an endorsement. The USDA should set a high bar to protect its

¹ https://foodandwaterwatch.org/wp-content/uploads/2021/04/oppose_the_growing_climate_solutions_act_final_101520.pdf

² IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, S.L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O. Yelekçi, R. Yu, and B. Zhou (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, 2391 pp. doi:10.1017/9781009157896.

³ Zickfeld, K., Azevedo, D., Mathesius, S. *et al.* Asymmetry in the climate-carbon cycle response to positive and negative CO₂ emissions. *Nat. Clim. Chang.* **11**, 613–617 (2021). <https://doi.org/10.1038/s41558-021-01061-2>

credibility with farmers and the public, including the possibility that no protocols or verifiers currently meet a high standard for listing.

Setting a high bar is critical because of warning signs about the financial viability of voluntary markets. The Ecosystem Marketplace reported last month that the transaction value of the voluntary market for carbon offsets dropped 61% from 2022 to the end of 2023.⁴ They attributed the market plunge to recent scientific research and investigations indicating that many offset projects fail to reduce emissions and some are linked to human rights violations around the world. The sharp drop in the market reminds many of the full-scale collapse of the voluntary carbon credit market tied to the Chicago Climate Exchange in 2010.⁵

The corporate retreat from voluntary carbon markets is tied to the rising need to reduce (not offset) emissions to avert the climate crisis. There is now substantial evidence that carbon offset projects provide little climate benefit⁶ and that offsets are incompatible with meeting the goals of the Paris Climate Agreement.⁷ The recommendations from the UN High Level Expert Group on corporate net zero commitments concluded that carbon credits should not be counted to meet interim reduction targets.⁸ The “technology-neutral” IPCC in its last Synthesis Report (2023) did not support or even mention offsetting as a viable option.⁹

The Weak Foundation of Voluntary Markets

The problems in voluntary carbon markets are not new, many have been identified for more than two decades. Farmers are all too familiar with poorly functioning markets that do not pay enough to cover costs, and as a result have largely chosen not to participate in voluntary carbon markets.¹⁰ Additionally, a report published last year by the Minnesota Farmers Union and Farmers Legal Action Group outlined numerous ways that farmers are exposed to risk from carbon credit contracts.¹¹ The report pointed out that some carbon credit developers include confidentiality clauses that limit contract transparency. In an unregulated market, farmers must fully understand a protocol’s system of carbon measurement and how that system may change over time, ultimately affecting the prices farmers are paid. Farmers need to fully understand what prices are locked in and for how long, and what prices can change over time. Other key issues of potential risk for farmers identified in the report include: inconsistent definitions of the terms “additionality” and “practices”; who owns farm-related data and rights to sell that data; the rights of developers and

⁴ <https://www.ecosystemmarketplace.com/publications/2024-state-of-the-voluntary-carbon-markets-sovcm/>

⁵ <https://archive.nytimes.com/www.nytimes.com/cwire/2011/01/03/03climatewire-chicago-climate-exchange-closes-but-keeps-ey-78598.html?pagewanted=2>

⁶ <https://gspp.berkeley.edu/research-and-impact/centers/cepp/projects/berkeley-carbon-trading-project/repository-of-articles>

⁷ [https://www.cell.com/one-earth/fulltext/S2590-3322\(23\)00393-7?_returnURL=https%3A%2F%2Flinkinghub.elsevier.com%2Fretrieve%2Fpii%2FS2590332223003937%3Fshoall%3Dtrue](https://www.cell.com/one-earth/fulltext/S2590-3322(23)00393-7?_returnURL=https%3A%2F%2Flinkinghub.elsevier.com%2Fretrieve%2Fpii%2FS2590332223003937%3Fshoall%3Dtrue)

⁸ https://www.un.org/sites/un2.un.org/files/high-level_expert_group_n7b.pdf

⁹ <https://www.ipcc.ch/report/ar6/syr/>

¹⁰ <https://www.agriculture.com/crops/soil-health/skepticism-regarding-carbon-markets-reigns-among-farmers>

¹¹ https://mfu.org/wp-content/uploads/2023/01/Carbon-Market-Guide_FINAL-1.9.23.pdf

verifiers to inspect the farm; conflicts-of-interest where project developers require the use of their technology or products; special obligations on contracts involving rented land; potential limits on receiving payments from government conservation programs for the same practices; and the lack of clarity of farmers' rights if the project developer decides to end the contract or can't sell the credit.

A USDA report in October 2023 identified another set of concerns in voluntary carbon markets that have resulted in an extremely low participation rate by farmers.¹² The report highlighted how current voluntary markets:

- offer low prices for farmers with high costs for entry;
- require considerable costs to quantify and accurately measure carbon sequestration, even as these measurements still have a high degree of uncertainty. Additional costs associated with verification further erode potential financial rewards, particularly for smaller scale farmers who can't achieve economies of scale with verifiers;
- include considerable upfront costs for farmers to enter the market with payments often delayed for more than a year;
- require extensive record-keeping costs and farmers may lose control of their on-farm data;
- often exclude farmers of a smaller size or certain type of production;
- include permanence requirements necessary for market integrity but restrict farmers' ability to respond to changing conditions (whether economic, weather-related or a change in ownership);
- require credit creating actions be additional (new practices that weren't already being done). This requirement favors high emitting operations (with the greatest opportunity for reductions) and excludes farmers already reducing emissions (early adopters).

Due to eroding confidence in voluntary markets, the White House felt compelled last month to release a set of principles (not standards or regulations) for high integrity voluntary carbon markets.¹³ The principles reiterate that in order for voluntary carbon markets to have credibility, such credits must include activities that are: additional, permanent, unique (no double-counting), and activities are designed to prevent leakage (shifting of production elsewhere).

The White House principles also clearly state that any carbon credit activities "should avoid environmental and social harm," explicitly pointing out the potential for environmental justice impacts of some carbon crediting projects. Potential harms include threats to biodiversity, food security, land use and tenure rights, and their potential adverse effects on people. The White House principles also emphasize that companies purchasing credits should prioritize "measurable emissions reductions" within their own company and supply chain. The White House calls for full transparency on the purchase and retirement of credits. At a minimum the final USDA rule for this program should incorporate these principles.

¹² <https://www.usda.gov/sites/default/files/documents/USDA-General-Assessment-of-the-Role-of-Agriculture-and-Forestry-in-US-Carbon-Markets.pdf>

¹³ <https://home.treasury.gov/system/files/136/VCM-Joint-Policy-Statement-and-Principles.pdf>

A high bar for the USDA's program

As the USDA develops this new program, it has an obligation to carefully ensure protocols and certifiers do not repeat or perpetuate the flaws in current voluntary markets. By listing protocols and certifiers, the USDA is essentially endorsing those on the list. As a starting point, we urge the USDA to ensure any protocols and verifiers listed are consistent with the White House's principles for voluntary markets and ensure that the risks to farmers outlined in the FLAG/MFU report are directly addressed.

Below, we answer several of the questions included in the USDA's request for information.

Question 1: How should USDA define the terms "consistency," "reliability," "effectiveness," "efficiency," and "transparency" (see [7 U.S.C. 6712\(c\)\(1\)\(A\)](#)) for use in protocol evaluation?

To be reliable and transparent, the USDA's evaluation should require that protocols fully protect farmers' rights, including full transparency for the farmer on pricing, costs, control of data, and market uncertainty, as outlined in the FLAG/MFU report. "Transparency" should be defined to ensure that protocol and technical assistance contracts with farmers disclose all terms and conditions and rights and obligations in plain English or the native language of the farmer or rancher, as applicable. Furthermore, "transparency" should be defined to include a farmer's right to refuse any confidentiality or non-disclosure agreement in carbon credit or technical assistance contracts. Confidentiality or non-disclosure requirements prevent farmers from fairly understanding the market, including what prices and conditions are being offered to other farmers. And a contracting party should be prohibited from punishing, refusing to contract, or otherwise harming the business interests of a farmer for exercising this right as a condition of inclusion in the list of approved verifiers.

Further, to be "transparent" protocols should be clear about pricing, what is locked in and when prices may change. Protocols should also be clear on costs to the farmer, including transaction costs, and the timeline before payment begins. They should be clear on measurement systems and how they may change and who makes that decision. Protocols must be clear about how farmers and the market itself could be affected by weather-related damage to offset projects, including how the protocol ensures adequate buffer credit stocks. Protocols should be absolutely clear about who owns and controls on-farm data derived from the creation of carbon credits. Finally, protocols should have high record-keeping and credit retirement standards that prevent the double-counting or use of environmental attributes by other companies or governments.

To be "reliable" and "effective" any protocol listed should respond to the issues raised in the USDA's October 2023 report and by the White House voluntary carbon market principles announced last month, particularly as they address "additionality," "permanence" and "environmental justice." As identified in the White House principles, protocols should consider adverse effects of projects for communities, including when credits bought by a polluter allow continued pollution in already over-burdened communities. Protocols should also consider the project's impact on biodiversity both from ongoing pollution tied to the credit purchaser and from the project itself.

Protocols must be able to demonstrate that new practices are “additional” to what the farmer was doing previously or was going to do anyway because of another program or requirement, that the carbon sequestered is permanently in the ground, and that the carbon can be precisely measured now and over time. A recent analysis of 14 soil carbon protocols found that none contained rigorous standards and protocols, particularly on the issue of additionality.¹⁴ Protocols should use direct and deep soil measurement¹⁵ and not depend on the modeling of practices, which can obscure what is actually occurring in the soil. Any protocol that fails to meet these standards should not be considered “effective,” as it would immediately undermine the credibility of carbon credits purchased by polluters to offset their emissions.

For projects related to emission reduction, such as the use of feed additives to reduce methane from ruminants, protocols should include direct measurements over time to ensure reductions are real. There continue to be questions about whether methane reductions associated with feed additives’ decline over time.¹⁶ For feed additives that claim to reduce methane, the impact on the health of the animal over time should also be monitored systematically. Protocols related to feed additives should not allow a participating operation to expand its herd size and associated methane emissions, thereby undermining emission reductions and creating an opportunity to game the system.

IATP urges the USDA to make the FLAG/MFU report available on its website to farmers considering these voluntary markets. Additionally, we urge the USDA to create an accessible pathway for farmers to report unfair practices or abuse within voluntary markets, similar to the confidential complaint portal created by USDA and the Department of Justice for farmers operating in livestock and poultry markets.¹⁷

Question 2: What should USDA consider as minimum criteria for a protocol to qualify for listing under the Program?

Weak or flawed protocols undermine climate action and put farmers at risk. We urge the USDA to set the highest possible criteria in order to be listed. Those criteria should directly and transparently address the core issues identified earlier in this comment.

Without any regulatory framework, fraud is a major challenge for voluntary carbon markets. The Commodity Futures Trading Commission (CFTC)’s whistleblower office has issued an alert to report fraud cases within voluntary carbon markets¹⁸. We urge the USDA to ban protocol developers and verifiers who have been found to have engaged in fraud, abuse or fake carbon credit schemes, or misleading or deceptive climate claims. Additionally, we urge the USDA to conduct a yearly, mandatory audit of the list of verifiers.

¹⁴ <https://carbonplan.org/research/soil-protocols-explainer>

¹⁵ <https://carbonplan.org/research/soil-depth-sampling>

¹⁶ https://livestockmethane.com/wp-content/uploads/2024/05/2024-03-Animal-feed-supplements-.pdf?_gl=1*lf51w5*_up*MQ.*_ga*MTM3Mzc5Njg2NS4xNzE4NjQ0NDA1*_ga_1DFCNGTP4M*MTcxODY0NDQwNC4xLjEuMTcxODY0NDQxOS4wLjAuMA..

¹⁷ <https://www.usda.gov/farmerfairness>

¹⁸ <https://www.cftc.gov/PressRoom/PressReleases/8723-23>

Additionally, protocols and verifiers should not be listed if there is a clear “conflict-of-interest” in the creation of offset credits. In the case of protocols, some project developers require the farmer to use the developer’s technology or products, such as seeds or pest control. This conflict results in incentives to initiate carbon credit projects in order to sell products to farmers, rather than to protect the climate or ensure the integrity of the carbon credit. Some verifiers also sell and market carbon credits or work for the project developers. This creates an incentive to approve carbon credit projects to sell or market credits, at the expense of program integrity.

Finally, we urge the rejection of protocols that exclude farmers of a smaller scale and that exclude certain types of production. The USDA should not play favorites in terms of farm-size or type of production as it creates this program. This will require deliberate and careful effort as other USDA programs have favored larger-scale projects, closing out smaller-scale projects proposed by farmers.¹⁹ We urge the USDA to update its list regularly (at least every six months) to account for changes in protocols, verifier’s practices, and the market at large.

We appreciate the opportunity to submit this comment. Please send any questions or comments to Ben Lilliston (blilliston@iatp.org).

¹⁹ <https://www.iatp.org/opening-door-more-conservation>