December 11, 2025

Acting Chair Caroline D. Pham
Commodity Futures Trading Commission
Three Lafayette Centre 1155
21st Street, NW
Washington, DC 20581

Sent via email to ChairmanPham@cftc.gov

Re: Withdrawal of Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts, RIN 3038–AF63 (90 Fed. Reg. 44321)

Dear Acting Chair Pham:

Clean Air Task Force ("CATF") respectfully submits this letter in response to the Commodity Futures Trading Commission's ("CFTC" or "Commission") notice of withdrawal of the Commission's final guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts ("withdrawal" or "withdrawal notice"), 90 Fed. Reg. 44321 (Sept. 15, 2025).

CATF is a nonprofit organization dedicated to advancing the policy and technology changes necessary to achieve a zero-emissions high-energy planet at an affordable cost. With more than 25 years of internationally recognized expertise on environmental policy and law, and a commitment to exploring all potential solutions, CATF is a pragmatic, non-ideological advocacy group with the bold ideas needed to address climate change and air pollution. CATF has offices in Boston, Washington, D.C., and Brussels, with staff working remotely around the world.

At CATF, our Land Systems program is working to enhance ecosystem-based carbon sequestration in ways that do not deter emissions reductions. Without sufficient oversight, voluntary carbon credit derivatives markets have the potential to undermine market integrity, misinform investors, and deter emissions reductions and undermine progress on climate change. CATF has been actively involved in the CFTC's adoption of its voluntary carbon market guidance, including submitting comments on the proposed guidance and on both convenings held by the Commission on voluntary carbon markets.[1]

CATF urges the Commission to reinstate its guidance for voluntary carbon markets. This guidance offered much-needed assurance to investors that carbon credits sold in the voluntary market would meet minimum quality standards at a time when public trust in the market is

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[1] *See* Clean Air Task Force, Comment for Orders and Other Announcements 88 FR 89410 (Feb. 16, 2024), https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=73302; Clean Air Task Force, Comment for Second Voluntary Carbon Markets Convening on July 19, 2023 (Aug. 18, 2023), https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=72913; Clean Air Task Force & NCX, Comment for Orders and Other Announcements, 87 FR 34856 (Oct. 7, 2022), https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=70861.

strained.[2] The withdrawal of this guidance risks further eroding market integrity and undermining progress on emissions reductions, avoidances, and removals. In addition to urging the CFTC to retain this guidance, CATF reiterates our recommendation that the CFTC take additional actions to ensure the integrity of carbon markets by issuing regulations specific to these markets.

Voluntary Carbon Markets Face Persistent Concerns About Credit Quality

Voluntary carbon markets depend on investor confidence that contracts in those markets represent underlying voluntary carbon credit commodities that actually result in a metric ton reduction, avoidance, or removal of carbon dioxide. Persistent concerns about carbon credit quality have contributed to market volatility and even contraction.[3] In 2021, the total trade in voluntary carbon credits reached $2 billion.[4] However, in recent years the market has stagnated.[5] The future direction of the market will depend on confidence in credits. With high trust in carbon credit quality and high demand, BloombergNEF projects that the market value could top $1.1 trillion annually by 2050.[6] The total market would be significantly less—no more than $34 billion—in BNEF's alternative scenario where credit integrity issues remain unaddressed.[7]

Unfortunately, lack of standardization and transparency about the quality of carbon credits could make contracts involving the trade of credits vulnerable to manipulation. As the Commission has recognized, quantifying the net carbon reduced or removed is an inherently complex process, and there currently is a lack of any standardized protocol or methodology to ensure the quality of carbon credits.[8] Excess flexibility in how protocols are implemented can result in over-crediting, as found in a recent study on cookstove offset methodologies[9] and another on improved forest management.[10] The entities responsible for certifying and issuing credits also have financial incentives to inflate the number of credits issued because those entities

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[2] *See* Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts, 89 Fed. Reg. 83378, 83378 (Oct. 15, 2024) (final guidance).

[3] *See* Forest Trends' Ecosystem Marketplace, State of the Voluntary Carbon Market 2025, at 1, 3 (describing volatility and noting 25 percent decline in total market transactions in 2024 compared to previous year), available for download at: https://www.ecosystemmarketplace.com/publications/2025-state-of-the-voluntary-carbon-market-sovcm/.

[4] *See* Ecosystem Marketplace, *VCM Reaches Towards $2 Billion in 2021: New Market Analysis Published from Ecosystem Marketplace* (Aug. 3, 2022), https://www.ecosystemmarketplace.com/articles/the-art-of-integrity-state-of-the-voluntary-carbon-markets-q3-2022/.

[5] *See supra* note 3.

[6] *See* BloombergNEF, *Carbon Credits Face Biggest Test Yet, Could Reach $238/Ton in 2050, According to BloombergNEF Report* (Feb. 6, 2024), https://about.bnef.com/blog/carbon-credits-face-biggest-test-yet-could-reach-238-ton-in-2050-according-to-bloombergnef-report/.

[7] *See id.*

[8] 89 Fed. Reg. at 83381 ("current absence of a standardized methodology or protocol").

[9] *See* Annelise Gill-Wiehl, Daniel M. Kammen & Barbara K. Haya, *Pervasive over-crediting from cookstove offset methodologies*, 7 Nature Sustainability 191-292 (Jan. 23, 2024), https://www.nature.com/articles/s41893-023-01259-6; *see also* Berkeley Carbon Trading Project, A comprehensive quality assessment of cookstoves carbon credits, University of California Berkely Center for Environmental Policy, https://gspp.berkeley.edu/research-and-impact/centers/cepp/projects/berkeley-carbon-trading-project/cookstoves (last visited Nov. 12, 2025).

[10] *See* Barbara K. Haya et al., *Comprehensive review of carbon quantification by improved forest management offset protocols*, 6 Frontiers Forests & Global Change, No. 958879 (2023), https://www.frontiersin.org/journals/forests-and-global-change/articles/10.3389/ffgc.2023.958879/full.

are almost always compensated on a per-credit basis.[11] Further, there is a lack of transparency into the details of how individual projects implement protocols approved under carbon credit registries.[12] Finally, the voluntary nature of these markets means that there is an absence of appropriate systems of regulation to remedy inflated or fraudulent credits even when those instances are identified. A recent report on the failure to take action to remedy issues with a major forest-based carbon credit project has demonstrated these problems and raised new questions about the quality of projects that produce carbon credits.[13]

Many of these issues with carbon credits are made clear in research led by CATF on the protocols governing forest carbon credits.[14] Forest carbon credits make up nearly forty percent of the global voluntary carbon market to date. However, our research found that most of the current protocols governing forest carbon credits are flawed and lack the stringency needed to ensure individual credit quality, underscoring the need for regulators to establish standards for credit quality and project-level information transparency to protect investors from fraud. Key challenges include:

- **Lack of additionality:** Weak rules permit overly simplistic assumptions, leading to the potential for some projects to inaccurately claim they deliver carbon reductions well beyond what would have occurred without the project.

- **Indirect emissions from leakage:** Many protocols fail to adequately account for the degree to which enhancing forest carbon through changed management in one location could lead to increased forest carbon loss elsewhere, eroding the carbon value of the issued credits.

- **Permanence concerns:** Forest carbon is vulnerable to being rereleased to the atmosphere due to wildfires, pests, and land use changes, yet protocols often inadequately account for the reality of these long-term risks by applying uniform assumptions instead of place-based data and leave the carbon underlying the credits subject to uninsured losses.

- **Monitoring and verification weaknesses:** Limited transparency, significant developer discretion, and broad assumptions raise questions about the accuracy and consistency of

[11] Joan Pinto, *Analysis: Do offset registry revenue models offer perverse incentives to over-credit?*, Carbon Pulse (Mar. 20, 2023), https://carbon-pulse.com/196254/.

[12] *See* 89 Fed. Reg. at 83381 (noting "opaque or inadequate calculation methodologies or protocols"); Berkeley Carbon Trading Project, Reducing Emissions from Deforestation and Forest Degradation (REDD+) Carbon Crediting, University of California Berkeley Center for Environmental Public Policy (2023), https://gspp.berkeley.edu/research-and-impact/centers/cepp/projects/berkeley-carbon-trading-project/redd, (providing assessment of REDD+ carbon credit quality).

[13] *See* Ben Elgin, *Majority of Carbon Credits from Tarnished Project Deemed Bogus*, Bloomberg (Oct. 17, 2025), https://www.bloomberg.com/news/articles/2025-10-17/majority-of-carbon-credits-from-tarnished-project-deemed-bogus .

[14] *See* Clean Air Task Force, *With new study and scorecard, scientists call for overhaul to forest carbon credit protocols* (May 15, 2025), https://www.catf.us/2025/05/new-study-scorecard-scientists-call-overhaul-forest-carbon-credit-protocols/; Rebecca Sanders-Demott et al., Ground Truth: An Assessment of Forest Carbon Credit Protocols, Clean Air Task Force & Forest Carbon Protocols (2025), https://www.forestcarbonprotocols.org/wp-content/uploads/2025/05/Forest-Carbon-Credit-Protocols-Assessment-Report.pdf (attached).

carbon credit quantification and therefore introduce uncertainty in credit quality from one project to the next.

Guidance for Voluntary Carbon Markets is Essential to Ensure Market Integrity

Despite issues about carbon credit quality, oversight of markets to address these concerns has been limited, with the Commission's guidance one of few federal agency actions to date.[15] The CFTC's guidance sought to address market integrity issues in the voluntary carbon market through the Commission's existing statutory authority. Unfortunately, withdrawal of this guidance is a step backwards that risks weakening the integrity of these markets.

As the Commission previously recognized, voluntary carbon credit "derivatives are a comparatively new and evolving class of products" and the guidance "may help to advance the standardization of such products in a manner that promotes transparency and liquidity."[16] In particular, the guidance related to issues "impacting the speed at which transparent, robustly traded markets for high-integrity [voluntary carbon credits] are scaled."[17] The guidance furthered the CFTC's congressionally established purposes to prevent disruptions to market integrity; ensure the financial integrity of market transactions; protect market participants from fraudulent sales practices; and promote responsible innovation and fair competition among markets and market participants.[18]

Considering the unique aspects of markets for voluntary carbon credit derivatives, the guidance focused on quality standards, commodity characteristics, and inspection and certification procedures to prevent listing of contracts that are readily susceptible to manipulation.[19] The quality standards include transparency, additionality, permanence and risk of reversal, and robust quantification.[20] For delivery points and facilities, the guidance emphasized governance frameworks that support the independence, transparency, and accountability of crediting programs; tracking the issuance, transfer, and retirement of voluntary carbon credits; and measures to prevent double counting.[21] These aspects of the guidance reflect widely-held principles for carbon credit quality.[22]

Without sufficient guidance, voluntary carbon markets face risks to their integrity. Well-functioning markets for the trade in voluntary carbon credit derivative contracts depend on market participants having assurances that the underlying commodities will be high-quality. The Commission's guidance provided important information on how these markets are expected to function, thereby promoting market transparency, liquidity, and integrity.

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[15] *See* Gov't Accountability Office, GAO-25-107128, Carbon Credits: Limited Federal Role in Voluntary Carbon Markets (2025), https://www.gao.gov/products/gao-25-107128.
[16] 89 Fed. Reg. at 83378.
[17] *Id.* at 83381.
[18] 7 U.S.C. § 5(b).
[19] *See* 89 Fed. Reg. at 83401-02.
[20] *Id.* at 83402-03.
[21] *Id.* at 83403-04.
[22] *See id.* at 83381-82 (describing initiatives to promote transparency, integrity, and standardization in voluntary carbon markets); *id.* at 83381 n.45 (providing examples of principles for carbon credits and carbon markets).

The CFTC's Withdrawal Lacked the Public Transparency of the Guidance's Development

The complete lack of process accompanying the Commission's withdrawal of this guidance stands in stark contrast to the careful and detailed approach it took to develop and finalize the guidance. Furthermore, the CFTC has not met the standard for an agency policy change, including by failing to provide the required more detailed justification for contradicting facts that underlay the prior policy and by failing to consider reliance interests in the guidance.

The CFTC spent over two years researching and engaging with stakeholders before issuing the final guidance. The Commission hosted two convenings to consult a variety of market participants' perspectives and used the takeaways to develop its proposed guidance. The proposal was subject to a seventy-five-day comment period, with responses incorporated into the final guidance. Throughout this process, CATF engaged with and urged the Commission to ensure the integrity of carbon markets through guidance or regulations.[23] In contrast to the robust procedures by which it was issued, the withdrawal of this guidance was subject to no public notice or comment period.

Additionally, the CFTC failed to satisfy the requirements for an agency policy change in the withdrawal of the guidance. When changing position, an agency must demonstrate awareness that it is changing position, show there are good reasons for the new policy, and that the new policy is permissible under the statute.[24] Where, as here, a new policy rests upon factual findings that contradict those underlying the prior policy or the prior policy engendered serious reliance interests, the agency must also provide a more detailed justification than if writing on a blank slate.[25]

For instance, the Commission states that it now "believes that it placed a disproportionate focus on a particular class of derivative contracts" and that a "uniform regulatory framework" best serves the CFTC's mission.[26] But in the guidance, the Commission previously concluded, based on its review of factual information in the record, that voluntary carbon credit derivative contracts had "certain unique attributes, as do voluntary carbon markets themselves," which justified providing guidance.[27] In particular, the CFTC considered that standardization and accountability mechanisms were still developing for voluntary carbon credits.[28] Not only does the Commission not provide a more detailed justification for contradicting these and other earlier factual findings, it does not even acknowledge them. And the withdrawal nowhere even considers whether designated contract markets listing voluntary carbon credit derivatives, or participants in those markets, have developed reliance on the CFTC's guidance since it was issued last year. These failures render the withdrawal arbitrary and capricious.

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[23] *See supra* note 1.
[24] *See FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515-16 (2009). The Supreme Court has assumed without deciding that the change-in-position doctrine applies to nonbinding guidance documents, and has applied it to analyze at least two policy statements. *See FDA v. Wages & White Lion Investments, LLC*, 604 U.S. 542, 569 n.5 (2025).
[25] *See Fox TV*, 556 U.S. at 515-16.
[26] Withdrawal of Commission Guidance, 90 Fed. Reg. 44321, 44321-22 (Sep. 15, 2025).
[27] 89 Fed. Reg. at 83385.
[28] *See id.*

Conclusion

Regulation of voluntary carbon credit derivatives markets is an exercise of the CFTC's core statutory mission to promote the integrity, resilience, and vibrancy of derivatives markets. As the Commission previously found, these derivatives face standardization issues and concerns about quality that impact market integrity. Addressing those issues can improve market liquidity and provide greater confidence for market participants and stakeholders that commodities represent real emissions reductions, avoidances, or removals.

Although the withdrawal of this guidance is a step backward and the guidance should be reinstated, the Commission retains valuable tools to provide oversight of the voluntary carbon market. CATF reiterates that the Commission should build on its past findings regarding carbon credit derivatives and issue regulations for these markets and is willing to provide technical assistance to CFTC on that or other action for these markets.

Respectfully submitted,

Kathy Fallon, Land Systems Program Director
Rebecca Sanders-DeMott, Director, Ecosystem Carbon Science
Mary Sasso, Attorney
Frank Sturges, Attorney

Clean Air Task Force
114 State Street, 6th Floor
Boston, MA 02109

kfallon@catf.us
rsanders-demott@catf.us
msasso@catf.us
fsturges@catf.us