



February 16, 2024

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Submitted electronically

**Re: Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts;
RIN 3038–AF40**

Dear Secretary Kirkpatrick,

The American Forest & Paper Association (AF&PA) appreciates the opportunity to provide comments on the Commodity Futures Trading Commission's (CFTC) proposed guidance regarding the listing for trading of voluntary carbon credit derivative contracts.

AF&PA would not ordinarily comment on guidance regarding financial markets or the listing of derivative contracts; however, we are concerned this proposed guidance, if finalized as proposed, could have unintended consequences for U.S. forest products manufacturing. Any guidance that could facilitate leakage (i.e., shifting U.S. manufacturing and production, jobs, and emissions to other countries by undermining the competitiveness of U.S. producers), particularly by increasing costs for forest fiber must be avoided. We are concerned that leakage is only obliquely referenced once in this guidance. Policymakers have shown that nature-based offsets often are systematically underestimating market leakage effects.¹ We encourage the guidance to better address and account for leakage.

At the outset, we must emphasize that we are concerned by any guidance that could prohibit or impede timberlands, private or public, from being sustainably managed as working forests. The history of federal forested lands shows that a hands-off approach to land management leads to counterproductive - and sometimes highly destructive - environmental and economic outcomes. It is imperative that the Commission and other policymakers ensure that the U.S. industries providing rural jobs and essential products, such as paper and wood products manufacturers, remain competitive in the global marketplace.

As the Commission considers guidance, we encourage recognition of the extensive carbon benefits of the U.S. pulp and paper industry. Including its use of manufacturing residuals for biomass energy, and

¹ Ben Filewod and Geoff McCarney. "Avoiding carbon leakage from nature-based offsets by design". One Earth Journal, Volume 6, Issue 7. (July 2023) <https://www.sciencedirect.com/science/article/pii/S2590332223002580>

the potential for carbon sequestration at pulp and paper mills. Additionally, guidance should not disrupt the positive relationship between the marketplace and the environment by impeding voluntary contracts and bilateral agreements. If properly designed, voluntary carbon credit derivative contracts could reduce transaction costs, facilitate the value chain to monetize carbon benefits, and demonstrate the climate benefits of the U.S. forest-based circular bioeconomy.

I. Introduction

AF&PA serves to advance U.S. paper and wood products manufacturers through fact-based public policy and marketplace advocacy. Our members include companies with mills that utilize both virgin and recycled fiber, and our members make essential paper products including packaging, printing papers, tissue, wood products, and a range of other products that are among the most used and necessary items for people in the U.S. and abroad – and are made from renewable, compostable and recyclable resources.

The forest products industry accounts for approximately five percent of the total U.S. manufacturing GDP, manufactures nearly \$350 billion in products annually and employs approximately 925,000 people. The industry meets a payroll of approximately \$65 billion annually and is among the top 10 manufacturing sector employers in 43 states.²

AF&PA’s sustainability initiative — *Better Practices, Better Planet 2030* — comprises one of the most extensive quantifiable sets of sustainability goals for a U.S. manufacturing industry and is the latest example of our members’ proactive commitment to the long-term success of our industry, our communities and our environment. We have long been responsible stewards of our planet’s resources. We are pleased to report that our members achieved or surpassed most of our 2020 sustainability goals, including reducing greenhouse gas emissions 24.1 percent during 2005-2020 and improving purchased energy efficiency by 13.3 percent.³ Our 2030 goal to reduce greenhouse gas emissions by 50 percent is consistent with President Biden’s 2030 economy-wide goal, and a leading example for the U.S. manufacturing sector. AF&PA recognizes the ongoing challenges of our changing climate, and our industry greenhouse gas (GHG) goals reflect our commitment to reducing emissions.

AF&PA members are committed to sustainable forestry. Working forests and sustainable forest management have a critical role in maintaining or increasing carbon stocks, reducing fuel loadings that can lead to wildfires, and mitigating risk of disease and infestations in forests. As a condition of membership, AF&PA members source wood from responsibly managed forests. Sourcing fiber from sustainable forests helps ensure America’s forests are continuously replanted and preserved for future generations. AF&PA members achieved our 2020 sustainability goal for fiber procurement by procuring in 2020 99.2% of total wood fiber through a certified fiber sourcing program, and our 2030 goal to advance more resilient U.S. forests includes efforts to support conservation and restoration programs, engage in partnerships, and promote sustainable forest management practices.⁴

² AF&PA 2030 Sustainability Goals, <https://www.afandpa.org/2030>

³ AF&PA Better Practices, Better Planet 2020 Achievements Summary, <https://www.afandpa.org/statistics-resources/better-practices-better-planet-2020-achievements-summary>

⁴ AF&PA, How the Paper Industry Champions Sustainable Forestry, <https://www.afandpa.org/news/2023/how-paper-industry-champions-sustainable-forestry>

II. The proposed guidance should take into account the carbon benefits of the U.S. forest-based circular bioeconomy.

The forest-based circular bioeconomy

The large current and potential future contributions of U.S. forest products and forests are best understood from the perspective of an integrated and circular bioeconomy. Every link in the value chain is interdependent and essential for optimizing the potential of the U.S. forest-based bioeconomy for carbon benefits and other benefits.

Vast volumes of CO₂ are removed from the atmosphere and stored in sustainably managed forests that support the biosphere on which life on earth depends. Moreover, substantial amounts of this carbon are stored for varying times in a variety of paper and wood products (harvested wood product pools). By-products from sawmills (sawdust and chips) provide fiber for pulp and paper mills. Forest products also have a beneficial substitution effect – a low carbon footprint and other co-benefits, as discussed below.

Additionally, due to the high recycling rate, compostability, biodegradability and other sustainable characteristics of our products, there are benefits in terms of reduced impacts on ocean life and other wildlife.⁵ And as the future unfolds, more efficient use of bio-based materials, new innovations in more climate-smart products, and enhanced recycling could lead towards higher substitution effects and additional co-benefits.⁶

As an integrated whole, the forest-based circular bioeconomy provides substantial climate benefits and many other co-benefits,⁷ such as:

- Maintaining forest health and resilience⁸ and sequestering carbon in both forests and forest products;
- Cutting in half the Scope 1 and 2 GHG emissions of paper and wood products manufacturers since 1990 and contributing to greening the electrical grid;⁹
- Improving recycling performance¹⁰ (the paper recycling rate has more than doubled from 33.5% in 1990 to 67.9% in 2022), resulting in avoided GHG emissions, keeping materials in use at their highest value, and preventing waste;¹¹
- Generating carbon-neutral bioenergy, largely from the residuals of our manufacturing process; and

⁵ National Council for Air and Stream Improvement (NCASI), Fact Sheet, “Paper and Plastic in Marine Environments (Aug. 2020).

⁶ See, e.g., Peter Holmgren, FutureVistas, “Climate Effects of the Forest-Based Sector in the European Union” (2019), at 4, 16.

⁷ See Kirsten Vice, NCASI, Slide Presentation, “Articulating the Forest Sector’s GHG/Carbon Story – Key Facts” (June 10, 2021).

⁸ See R.W. Malmshheimer et al., “Managing Forests because Carbon Matters: Integrating Energy, Products, and Land Management Policy,” 109 *Journal of Forestry* 7 (2011).

⁹ NCASI, White Paper, “Greenhouse Gas Reductions for the U.S. Pulp and Paper Industry” (Oct. 2021).

¹⁰ Paper is recycled at much higher rates than other commodities, and the paper industry has planned or announced approximately \$5 billion in manufacturing infrastructure investments by the end of 2023 to further the best use of recycled fiber in our products.

¹¹ NCASI, Fact Sheet, “The Forest Products Sector: Circular by Design?” (Dec. 2018).

- Providing more sustainable alternatives to GHG-intensive or fossil-based products.¹²

Upon taking office, President Biden set the most ambitious climate goals of any President in U.S. history.

In Executive Order 14008, he stated:

It is the policy of my Administration to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy, increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure.¹³

Finding the kind of climate solutions that President Biden has called for includes reliance on renewable energy, lowering the fossil-intensity of products, supporting local economies, providing sustainable investment opportunities, and operating at a scale that can have a meaningful impact, while supporting human health, the environment, and opportunities for everyone. The U.S. forest-based bioeconomy can help increase all these benefits.

Forest products industry energy profile

Paper and wood products manufacturers produce enormous amounts of carbon-beneficial bioenergy integral to making forest sector products. The U.S. paper and wood products industry is a significant contributor to our country's base of renewable energy, producing more carbon-beneficial bioenergy than any other industrial sector. On average, about two-thirds of the energy used at AF&PA member facilities is generated from carbon-neutral biomass.¹⁴

The industry also strives to produce and use this energy as efficiently as possible. The industry is a leader in the use of combined heat and power (CHP) technology, which is extremely efficient because it uses the same fuel to produce both thermal energy used in the manufacturing process and electricity, some used on-site and some sold to the grid. In 2020, 99% of electricity produced by the industry was CHP-generated.¹⁵ The use of CHP provides energy efficiencies in the range of 50% to 80% at forest products mills, far beyond non-CHP electrical stations such as utilities, which are only about 33% energy efficient.¹⁶

Bioenergy produced and used by the forest products industry is extracted from biomass manufacturing residuals that otherwise could be wasted and emit greenhouse gases such as methane with much greater global warming potential (GWP), i.e., that produce more CO₂e. This bioenergy displaces the need for fossil fuel-based energy and may be consumed onsite or sold to the electricity grid. The scientific

¹² NCASI, White Paper, "Review of Literature on Forest Products-Related Avoided Greenhouse Gas Emissions" (July 2020).

¹³ Exec. Order No. 14008, "Tackling the Climate Crisis at Home and Abroad," 86 Fed. Reg. 7619 (Jan. 27, 2021).

¹⁴ 2020 AF&PA Sustainability Goals Achievements Summary, https://www.afandpa.org/sites/default/files/2021-07/2020_AF-PA-Sustainability-Report.pdf

¹⁵ U.S. Energy Information Agency, Form EIA-923 2020 data, <https://www.eia.gov/electricity/data/eia923/AF&PAAnalysis>.

¹⁶ U.S. Environmental Protection Agency, CHP Benefits, www.epa.gov/chp/chp-benefits ("The average efficiency of fossil-fueled power plants in the United States is 33 percent.")

evidence shows there are enormous greenhouse gas reduction benefits from using forest products manufacturing residuals for energy.¹⁷

Sustainable forest management

It also is important to consider that the demand for forest products helps ensure that U.S. timberlands that supply the fiber for the products are retained as forestlands and are sustainably managed. Recent U.S. Forest Service data indicate that U.S. timberlands grow nearly twice as much wood as is harvested.¹⁸

Voluntary offset markets accounted for nearly \$2 billion dollars in traded value in 2021, with 67% originating in forestry and land-use projects.¹⁹ The carbon benefits of the U.S. forest-based bioeconomy are best realized through working forests, not by taking forests out of use or deferring harvests. As the Intergovernmental Panel on Climate Change (IPCC) noted, “In the long term, a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fiber, or energy from the forest, will generate the largest sustained [climate] mitigation benefit.”²⁰

Healthy markets for forest products help insulate forests from economic pressure to convert to another land use and reduce excess fuel for forest fires and associated emissions. The greatest threat to forests in the United States is the lack of a vibrant forest products industry that is sustainably managing the many benefits a forest provides us. The demand for forest products helps to prevent conversion to other uses.²¹ According to a Journal of Forestry article, “Increased demand for wood can trigger investments that increase forest area and forest productivity and reduce carbon impacts associated with increasing harvesting.”²²

¹⁷ See Caroline Gaudreault and Reid Miner, “Temporal Aspects in Evaluating the Greenhouse Gas Mitigation Benefits of Using Residues from Forest Products Manufacturing Facilities for Energy Production,” *Journal of Industrial Ecology* (Dec. 2015), pp. 1,004-05 (showing that bioenergy produced from manufacturing residuals in the U.S. paper and wood industry avoids emission of approximately 181 million metric tons of CO₂e each year); U.S. Environmental Protection Agency, [Draft Framework for Assessing Biogenic CO₂ Emissions from Stationary Sources](#) (Nov. 19, 2014), Appendix D, pp. D21-D30 (finding that pulping liquor used by pulp and paper mills is carbon neutral or better); Dr. Timothy Searchinger and Ralph Heimlich, “Avoiding Bioenergy Competition for Food Crops and Land,” *World Resources Institute* (2015), at 22 and 24 (Table 3) (stating that black liquor is an “advisable” form of bioenergy); Dr. Timothy Searchinger, Dr. Steven Hamburg, et al., “Fixing a Critical Climate Accounting Error,” *Science* (Oct. 22, 2009) (concluding that biomass should receive credit to the extent its use results from the use of residues or biowastes”).

¹⁸ Oswald, Sonja N.; Smith, W. Brad; Miles, Patrick D.; Pugh, Scott A., *Forest Resources of the United States, 2017: a technical document supporting the Forest Service 2020 RPA Assessment*. Gen. Tech. Rep. WO-97. Washington, DC: U.S. Department of Agriculture, Forest Service, Washington Office. See Table 36, <https://www.fs.usda.gov/treearch/pubs/57903>

¹⁹ Ben Filewod and Geoff McCarney. “Avoiding carbon leakage from nature-based offsets by design”. *One Earth Journal*, Volume 6, Issue 7. (July 2023) <https://www.sciencedirect.com/science/article/pii/S2590332223002580>

²⁰ *Climate Change 2007- Mitigation of Climate Change, Contribution of Working Group III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change*, (B. Metz, O.R. Davidson, P.R. Bosch, R. Dave, L.A. Meyer (eds)), Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, Chapter 9, p. 543 (emphasis added).

²¹ NCSSF, *Global Markets Forum Summary Report of the National Commission on Science for Sustainable Forestry* (NCSSF) (2005).

²² Miner, Reid A.; Abt, Robert C.; Bowyer, Jim L.; Buford, Marilyn A.; Malmshiemer, Robert W.; O’Laughlin, Jay; Oneil, Elaine E.; Sedjo, Roger A.; Skog, Kenneth E. 2014. *Forest Carbon Accounting Considerations in US Bioenergy Policy*. *J. For.* 112(6):591-606.

III. Concerns with the proposed guidance

The Importance of Carefully Considering Tradeoffs:

When considering how to optimize carbon capture in the U.S. forest bioeconomy, the Commission must account for all carbon pools and how they could change over time and in response to different policies. While lengthening the rotation age of harvests could increase wood in the forest, it can starve the other carbon pools for products. Moreover, older forests gradually become less efficient in carbon capture compared with younger stands with a greater rate of carbon capture.²³ USDA Forest Service Research has shown increased densities over the past two decades, which may indicate increased benefits from active forest management from a carbon storage perspective.²⁴

When carbon benefits are transferred with the harvested wood along the value chain, the benefits are captured by the value chain responsible for creating them. This approach embodies the interconnectedness and mutual dependencies of carbon pools within the forest products value chain. Ensuring that climate benefits are passed along the value chain also would improve opportunities for small landowners who lack the scale to access the offsets markets to monetize climate-beneficial practices.

Additionally, we are concerned that if the guidance reduces flexibility for project certifications and voluntary agreements for carbon credits, it could disincentivize manufacturers from advancing greenhouse gas reduction projects, such as carbon capture and sequestration projects. Market flexibility must be encouraged to incentivize innovation.

We encourage the Commission to focus on improving the effectiveness of voluntary carbon markets while preventing leakage and other adverse impacts to the forest products manufacturing industry, jobs, local communities, and the rural economy.

Risk of Reversal:

Given the potentially enormous demand for carbon credits, if the guidance were to facilitate forest carbon sequestration through a no-harvest or minimized-harvest scenario, the net result could be harmful increases in fiber costs that damage U.S. forest products manufacturing, which could result in carbon leakage. The potential impacts on U.S. forest products manufacturers from increased fiber costs resulting from a spike in demand for forest carbon credits were analyzed in an economic study prepared for AF&PA by Fisher International, a consulting firm with expertise in the forest products industry.²⁵ The Fisher study translated the potential large demand for carbon offsets to a competing demand for forest fiber. The analysis indicates that the potential cost of forest carbon offset policies for the paper industry, including increased wood fiber prices from increased demand for trees from mandatory or voluntary programs, could be \$18.3 billion in wood fiber related costs over ten years in a middle case. This could

²³ See Bill Stewart, UC Forestry Specialist, Slide Presentation, "A Carbon Calculator for Tracking Climate Benefits of Managed Forests," U.C. Berkeley (Nov. 5, 2015); Bill Stewart, UC Forestry Specialist, Slide Presentation, "A Carbon Calculator for Sustainable Forestry Operations: Is It the Holy Grail?," U.C. Berkeley (July 17, 2013).

²⁴ See Woodall, Weiskittel 2021 <https://www.fs.usda.gov/treesearch/pubs/63114>

²⁵ Fisher International, "Economic and Employment Impacts of Environmental Regulations and Policies on the U.S. Pulp and Paper Industry" (Sept. 2022). While the study relied on a cross-functional team of experts to develop realistic assumptions and used reliable base data for its analysis, individual companies may have their own assessments of how forest carbon offset policies could affect costs related to their particular wood fiber supplies.

lead to a range of economic harms, including jeopardizing high-paying jobs well above the prevailing wage in small rural communities, damaging vulnerable communities and the value chain, and contributing to inflation, such as increased housing costs, without providing an appreciable benefit. Furthermore, such guidance not only would provide no appreciable climate benefits, but also could harm our changing climate. As the Fisher study noted: “A demand-supply imbalance in forest carbon offsets inadvertently could divert carbon from other carbon sequestration pools (e.g., lumber, other forest products, bioenergy, etc.) and encourage the use of more carbon-intensive substitutes (e.g., cement, steel, fossil energy, etc.)” As noted above, studies have found that the demand for timber can help to keep forestlands forested. To reiterate what the IPCC has stated, “In the long term, a sustainable forest management strategy aimed at maintaining or increasing forest carbon stocks, while producing an annual sustained yield of timber, fiber, or energy from the forest, will generate the largest sustained [climate] mitigation benefit.”²⁶ Unfortunately, the guidance could do the opposite in carbon-intensive countries, with longer supply chains and without the environmental standards of U.S. companies, which are among the most efficient energy users in the world. The U.S. economy has a carbon intensity, as measured in CO₂ emissions per dollar of GDP,²⁷ that is one-third lower than the global average, and up to three-quarters lower than that of many countries from which we have significant trade deficits.²⁸

In its focus on climate, the Commission also should not lose sight of other important societal benefits. Mitigating our changing climate and increasing sustainability are primary drivers of policy development. As GHG reduction has played a more central role in U.S. and international policy agendas, policymakers and regulators have looked to existing tools, such as life cycle assessment, to address new or more complex questions. Such tools have emerged as instrumental to quantify and account for environmental impacts in a product life cycle and have served regulatory and permitting needs for decades. Policies that focus only on climate impacts may inadvertently fail to consider other important co-benefits or environmental impacts after use, thus neglecting benefits that may positively contribute to the circular economy.

As described above, the paper and wood products industry’s role in supporting a circular economy is present along the entire value chain, providing substantial climate and other benefits. The use of forest-derived products is one way to alleviate climate and sustainability concerns. Further, paper products can be recycled, composted, and effectively disposed of in a safe and convenient way when necessary. Additionally, due to the high recycling rate and biodegradable nature of our products, there are benefits in terms of reduced impacts on ocean life and other wildlife.

IV. Conclusion

The U.S. forest products industry plays an instrumental role in helping the nation meet its renewable energy objectives as the demand for forest products helps ensure that U.S. timberlands are sustainably managed and not converted for other uses.

As the Commission works to develop guidance regarding the listing of voluntary carbon credit derivative contracts, we encourage recognition of the extensive carbon benefits of the U.S. pulp and paper

²⁶ Climate Change 2007- Mitigation of Climate Change, Contribution of Working Group III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, [B. Metz, O.R. Davidson, P.R. Bosch, R. Dave, L.A. Meyer (eds)], Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, Chapter 9, p. 543 (emphasis added).

²⁷ See <https://data.worldbank.org/indicator/EN.ATM.CO2E.KD.GD?locations=US-1W>

²⁸ See <https://data.worldbank.org/indicator/EN.ATM.CO2E.KD.GD?end=2019&locations=US-1W-VN-MY-IN-CN&start=1990&view=chart>

industry. Failure to do so may unintentionally harm U.S. manufacturing, jobs and economic growth, as well as neglect optimal carbon mitigation benefits. Effective guidance must recognize all the benefits of the forest-based circular bioeconomy and avoid unintended outcomes.

We thank you for the opportunity to provide these written comments, and we look forward to working with you as this process moves forward. If you have any questions, please contact Laura Seidman at Laura_Seidman@afandpa.org.

Best regards,

Paul Noe
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American Forest and Paper Association