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WHICH AGENCY SHOULD REGULATE CARBON CREDITS IN THE US?

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Key takeaways

- No federal agency currently has the authority to directly regulate project-based carbon credits. Congress would need to pass a new statute to grant such authority.
- In that event, both EPA and DOE would be strong candidates to regulate carbon credits. Each brings relevant mission alignment, technical expertise, and experience with emissions reporting and credit trading programs.
- Other agencies that have been suggested as possible regulators have less mission alignment, technical expertise, and experience to effectively oversee carbon credit integrity.

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Introduction

Project-based carbon credits are intended to harness private investment to mitigate climate change. A carbon credit is a transferable unit that generally represents one metric ton of carbon dioxide or carbon dioxide equivalent.[1] In the voluntary carbon market, companies and other entities buy carbon credits from project developers or intermediaries to counteract their own greenhouse gas (GHG) emissions. There is no legal requirement to participate. In a compliance carbon market, a government sets a total emissions limit and requires covered entities to obtain, either directly from the government or by trading with each other, permits (called "allowances") for each ton of pollution they emit. These programs are often called cap-and-trade, or emissions trading, systems. Some compliance markets let covered entities use a limited number of project-based carbon credits for compliance purposes.[2]

Despite their promise to mitigate GHG emissions and their increasing adoption, project-based carbon credits and the markets where they trade face significant challenges. A substantial majority of carbon credits (potentially over 80%, according to a handful of recent peer-reviewed studies) suffer from integrity problems—meaning that they often do not represent the claimed level of emissions reductions or removals (or that they cause negative externalities).[3] Misaligned incentives and market failures in markets for carbon credits likely contribute to these integrity problems. On the supply side, misaligned incentives among project developers, crediting programs, and validation and verification bodies may subtly encourage inflation of projects' emissions reductions or removals and over-issuance of carbon credits.[4] In addition, information asymmetries make it challenging for buyers to distinguish between high-integrity and low-integrity credits.[5]

These problems have harmed the credibility of project-based carbon credits as a tool for mitigating climate change. And while private standard-setters like the Integrity Council for the Voluntary Carbon Market have made incremental improvements, they have not yet resolved these issues. Meanwhile, some advocates have begun to explore other frameworks for carbon crediting that would depart more drastically from the current system.

Project-based carbon credits remain largely unregulated in the United States (and throughout the world). Federal regulation could address these problems, restoring the credibility of carbon credits as tools for mitigating climate change and increasing private spending to further this goal.

This policy brief examines which federal agency or agencies would be competent to regulate project-based carbon credits in the United States. The policy brief first examines the suitability of several U.S. federal agencies that advocates and stakeholders have suggested might regulate project-based carbon credits: the Environmental Protection Agency, the Department of Energy, the Department of Agriculture, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Federal Trade Commission. It then provides background about how some U.S. states and foreign governments have regulated project-based carbon credits or, relatedly, compliance carbon markets. It concludes that both the Environmental Protection Agency and the Department of Energy are competent to regulate project-based carbon credits, because both agencies have relevant missions, experience, and technical expertise. As between these two agencies, the choice may depend on political considerations; no federal agency currently has authority to directly address the integrity problems that affect project-based carbon credits, and changing this would require an act of Congress.

TABLE 1

The key carbon credit integrity problems

Integrity Problem	Definition
Non-additionality	When the project that generates the credits would have been implemented even without the incentive of earning revenue from the sale of carbon credits
Non-permanence	When the duration of a project's emissions reductions or removals does not match the duration of emissions in the atmosphere
Leakage	When a project directly or indirectly increases emissions outside of the project's boundaries but fails to adequately account for these increases in calculating total emissions reductions or removals
Environmental and social harm	When a project harms communities or ecosystems
Over-counting	When a project's emissions reductions or removals are counted more than once, as with over-issuance or over-use of carbon credits

NOTE: For a more detailed discussion of these integrity problems, see Shortell and Holt, Demystifying the Voluntary Carbon Market, 26-37. See Broekhoff et al. (2026), "Project-based carbon credit markets: Overview, issues, and future directions," for a comprehensive analysis of project-based carbon credit markets, their persistent integrity problems, and what reforms might make them more effective.

Options for the US to regulate project-based carbon credits

This section outlines the advantages and disadvantages—in terms of mission alignment and agency experience and expertise—of several agencies that have been suggested as potential carbon credit regulators: the Environmental Protection Agency (EPA), Department of Energy (DOE), Department of Agriculture (USDA), Commodity Futures Trading Commission (CFTC), Securities and Exchange Commission (SEC), and Federal Trade Commission (FTC). Of these agencies, EPA and DOE are both strong choices to regulate project-based carbon credits.

1. ENVIRONMENTAL PROTECTION AGENCY (EPA) REGULATION

In the U.S. context, EPA may be best suited to this role. Of the federal agencies Congress could task with regulating project-based carbon credits, EPA's mission—addressing environmental pollution[6]—best aligns with carbon credits' stated goal of reducing and removing GHG emissions. As discussed further below, EPA also has substantial experience implementing emissions-offsetting programs and running a mandatory GHG emissions reporting program.

EPA's experience administering offsetting programs for other pollutants (not to mention several other market-based mechanisms to address pollution) could inform its regulation of project-based carbon credits. For example, one offset program the EPA administers is the nonattainment major source review program. This program stems from Clean Air Act Sections 108 and 109, which require EPA to set National Ambient Air Quality Standards for six air pollutants: carbon monoxide, particulate matter, nitrogen dioxide, lead, ozone, and sulfur dioxide.[7] The statute delegates significant responsibility for the "implementation, maintenance, and enforcement" of these standards to the states.[8]

Within this framework, Clean Air Act Section 173 established an emissions-offseting program under EPA oversight that resembles the voluntary carbon market:

the nonattainment major source review program. This program addresses emissions of covered air pollutants from construction of new industrial facilities and from major renovations to existing facilities in areas that fail to meet EPA's standards (called nonattainment areas).[9] States may issue permits for such construction and renovation if the applicant facility pays for reductions in other existing facilities' emissions of covered air pollutants.[10] These offsets must generally represent reductions in emissions of the same air pollutant from facilities in the same nonattainment area.[11] EPA oversees and regulates the states' implementation of the program.[12]

In administering this offset program, EPA has grappled with offset integrity considerations similar to those that affect project-based carbon credits. For example, Section 173 addresses additionality by prohibiting offsets that represent legally required emissions reductions.[13] Relatedly, EPA regulations specify the baseline against which states must measure and provide credit for emissions reductions.[14] In addition, EPA requires states to ensure the permanence of credited emissions reductions.[15] As for environmental and social harm, Section 173's general requirement that facilities obtain offsets from within the same nonattainment area may help prevent the exacerbation of pollution hotspots.[16]

Legal enforceability of credited emissions reductions provides further assurance of offset integrity. Section 173 and EPA regulations specify that emissions reductions used as offsets must be federally enforceable.[17] And EPA has further stated that, "if the source(s) providing the emission reductions does not obtain the necessary reduction, it will be in violation of a [State Implementation Plan] requirement and subject to enforcement action by EPA, the state, and/or private parties."[18] Making project-based carbon credits legally enforceable would give buyers legal recourse that private "regulation" of the market has sometimes failed to provide.[19] EPA has experience managing this type of enforcement regime.

While the nonattainment major source review program exemplifies EPA's competence to regulate project-based carbon credits, it is one of many similar programs and policies. EPA has administered offsetting programs since the 1970s, and, over time, it has increasingly relied on offsetting and other market-based mechanisms to address pollution.[20] EPA also has expertise in GHG reporting that it could apply as a regulator of project-based carbon credits. In response to a congressional directive in 2007, EPA used existing Clean Air Act authority to issue mandatory GHG reporting requirements for certain large polluters in 2009.[21] Although EPA proposed in 2025 to eliminate many of these requirements,[22] EPA has built relevant expertise in its more than 15 years of administering this GHG reporting program. EPA's experience with running offsetting programs and other market-based mechanisms to address pollution and with GHG reporting makes EPA a strong choice to regulate project-based carbon credits.

2. DEPARTMENT OF ENERGY (DOE) REGULATION

DOE's mission does not align as closely as EPA's mission with the goals of project-based carbon credits: Congress created DOE in 1977 to coordinate and administer federal energy policy.[23] Nor does DOE have EPA's extensive experience with running emissions-offsetting programs. But DOE does have technical knowledge related to certain project types: renewable energy, energy efficiency, fuel-switching, carbon capture, and direct air capture. DOE also has other useful experience and expertise—in particular, its experience administering a voluntary GHG reporting program and its modeling capabilities. DOE is thus also a strong choice to regulate project-based carbon credits.

Since the 1990s, DOE has run a voluntary GHG emissions reporting program (distinct from EPA's mandatory program for certain large emitters).[24] The Energy Policy Act of 1992 instructed DOE to issue guidelines for voluntary reporting of GHG emissions and GHG emissions reductions "achieved through any measures," (including non-energy-related measures, such as forestry practices) and whether achieved voluntarily, through plant or facility closings, or to comply with legal requirements.[25] DOE's voluntary GHG reporting regulations remain on the books today, but in May 2025, DOE proposed a rule (which it has not yet finalized) to rescind key parts of the program.[26]

Information collected through the voluntary GHG reporting program could help DOE (or another agency) assess the integrity of project-based carbon credits. For example, reporting entities "must indicate whether the reported emissions reductions were the result, in whole or in part, of plant closings, voluntary actions, or government requirements."[27] This information relates to an emissions reduction's additionality. In fact, analogous integrity concerns to those in the voluntary carbon market appear to have motivated some of DOE's reporting guidelines. For example, DOE requires participating entities to certify that they "took reasonable steps to ensure that" reported emissions reductions and removals "are neither double counted nor reported by any other entity."[28] Reporting entities must also certify that none of the reported emissions reductions or removals "were produced by shifting emissions to other entities or to non-reporting parts of the entity"—a requirement seemingly intended to avoid leakage.[29]

In addition, DOE's voluntary GHG reporting regulations situate the Energy Information Administration (EIA)—housed within DOE[30]—as the issuer and tracker of emissions reductions, similar to crediting programs in the voluntary carbon market. The regulations state that EIA will review submitted reports to ensure their consistency with DOE's guidelines, to assess their "completeness, internal consistency, arithmetic accuracy, and plausibility," and to confirm their use of an acceptable baseline emissions level for calculating emissions reductions.[31] The regulations also encourage participating entities to seek verification from qualified, independent parties and requires them to report whether they did so.[32] After reviewing a submitted report, EIA will credit to the reporting entity any approved emissions reductions "as 'registered reductions' which can be held by the reporting entity for use (including transfer to other entities) in the event a future program that recognizes such reductions is enacted into law."[33] The regulations thus even contemplate future legal recognition of, and trading in, reported emissions reductions.

Finally, while DOE generally requires participating entities to report their emissions and their net emissions reductions achieved within their organizational boundaries, it also provides for offsetting. A participating entity can include offsetting emissions reductions obtained from another entity "as a separate and distinct component" of its report, alongside its own net emissions reductions.[34]

To be sure, DOE might finalize the changes to this program that it proposed in 2025, eliminating important aspects of the program. Either way, DOE's decades-long experience administering this voluntary GHG reporting program—its collection of information related to the integrity of reported emissions reductions, its explicit preparation for a future voluntary emissions-trading program, and its guidance on emissions offsetting—makes it a strong fit for regulating project-based carbon credits.

In addition, DOE's existing modeling capabilities could help it calculate and verify the GHG emissions reductions and removals that underlie project-based carbon credits. For example, in 1994, DOE's Argonne National Laboratory developed the GREET ("Greenhouse gases, Regulated Emissions, and Energy use in Technologies") model to calculate the GHG emissions and other environmental impacts from various technologies, products, and energy systems.[35] DOE has since created specific versions of the GREET model for particular use cases, and DOE and other agencies have used these models to guide their policymaking.[36] In fact, the International Civil Aviation Organization uses a version of the GREET model to calculate the lifecycle emissions of various sustainable aviation fuels for the aviation industry's sector-specific carbon market, the Carbon Offsetting and Reduction Scheme for International Aviation.[37] DOE (or another agency) could potentially adapt an existing DOE model or develop a new model to calculate and verify the GHG emissions reductions and removals that underlie project-based carbon credits.

While DOE lacks EPA's extensive experience operating emissions-offsetting or other market-based programs, it has also administered at least one credit-trading program. The Energy Policy Act of 1992 required government-owned and certain other large vehicle fleets to have a certain number and percentage of alternative-fueled vehicles.[38] DOE grants "alternative fueled vehicle credits" to regulated entities that exceed these requirements.[39] These entities can then sell their credits to other regulated entities, which can surrender purchased

credits to meet their own compliance requirements.[40] DOE collects information about the vehicles that underlie credits and tracks credit ownership and transfers.[41] DOE's experience administering this program could inform its regulation of project-based carbon credits.

3. ALTERNATIVE AGENCY LEADS

Some observers have suggested other agencies to regulate project-based carbon credits. The U.S. Department of Agriculture (USDA) has technical knowledge relevant to land-based projects. Meanwhile, the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) have experience regulating financial markets, and the Federal Trade Commission (FTC) implements federal consumer protection law. While none of these agencies match EPA's or DOE's suitability for regulating project-based carbon credits, each choice involves different tradeoffs and considerations.

The U.S. Department of Agriculture (USDA)

USDA is one option to regulate project-based carbon credits, given its technical knowledge relevant to land-based projects (including forestry and soil sequestration projects) and its existing efforts to improve farmers', ranchers', and forest landowners' access to environmental services markets, including carbon markets. But USDA's statutory mission creates a serious conflict of interest that makes USDA a poor fit to regulate project-based carbon credits.

USDA has a longstanding interest in facilitating farmers', ranchers', and forest landowners' access to carbon markets. In 2006, USDA declared a policy of facilitating "USDA constituents' participation" in carbon markets by "[e]stablishing a role for agriculture and forestry in providing environmental offsets" and "[d]eveloping accounting practices and procedures for quantifying environmental goods and services."[42] The Food, Conservation, and Energy Act of 2008 codified that policy. The statute required USDA to create technical guidelines "to facilitate the participation of farmers, ranchers, and forest landowners in emerging environmental services markets," especially carbon markets.[43] It also provided for USDA's creation of "[a] procedure to measure environmental services benefits," "[a] protocol to report" them, and "[a] registry to collect, record and maintain the benefits measured."[44] Finally, the statute requires USDA to issue guidelines for verifying environmental services benefits for which farmers, ranchers, and forest landowners seek credit.[45]

But there is a serious downside to USDA regulation of project-based carbon credits that would likely defeat such regulation's purpose: One of USDA's core statutory aims is to drive investment and economic development in rural areas.[46] This statutory purpose informs USDA's approach to carbon markets, which prioritizes increased participation by "USDA constituents."[47] USDA is thus better-situated to represent and advocate for the interests of developers of land-based projects rather than to protect the interests of other market participants or, more importantly, to address the market's integrity problems. As a result, USDA regulation would risk recreating or even exacerbating the market's existing problems.

The Commodity Futures Trading Commission (CFTC)

As a potential regulator of project-based carbon credits, the CFTC has received significant attention due to its demonstrated interest in regulating aspects of the voluntary carbon market. Most notably, the CFTC promulgated agency guidance on carbon credit derivatives (see box below for more information) and brought anti-fraud enforcement actions against a developer of clean-cookstove projects in fall 2024.[48] As its full name implies, however, the CFTC focuses on commodity futures (and other derivatives) rather than commodities themselves. The CFTC also lacks the technical expertise to regulate project-based carbon credits. While the CFTC makes sense to regulate any market that may exist for carbon credit derivatives, it is thus poorly suited to regulate project-based carbon credits.

Congress created the CFTC to further the purposes of the Commodity Exchange Act: overseeing "a system of effective self-regulation" of derivatives markets.[49] Derivatives are standardized, exchange-traded contracts

whose value is tied to an underlying commodity; traders typically use derivatives to hedge or speculate rather than to buy or sell the underlying commodity.[50] To support well-functioning derivatives markets, the CFTC focuses primarily on addressing the types of manipulation, fraud, and abuse that can arise in derivatives markets, as distinct from commodities markets.[51] While the CFTC also has anti-fraud enforcement authority that applies to both derivatives and commodities markets, that authority is likely limited to cases involving extreme fraud, like a clean-cookstove project developer's falsification of data about its projects' emissions reductions.[52] Consistent with the authority the Commodity Exchange Act gives it, the CFTC lacks experience setting and enforcing quality standards in commodities markets. Even if the CFTC had such experience, it also lacks the technical expertise that it would likely need to effectively regulate carbon credit integrity.

To analogize to another commodity like gold, the CFTC exists to regulate trading in gold futures and other gold derivatives. But unless its anti-fraud authority is implicated—for instance, if a seller of 5-karat gold claims to sell 10- or 14-karat gold—the CFTC does not regulate how gold itself is mined or sold.[53] In the case of project-based carbon credits, the most essential regulations are related to the integrity of carbon credit production (i.e., the "mining") and the market structure itself.

Moreover, this discussion assumes that project-based carbon credits are commodities because they probably fit the Commodity Exchange Act's definition of the term.[54] But from a practical standpoint, carbon credits are not fungible like other commodities (for example, gold, cotton, and oil).[55] The very integrity problems that make so many observers interested in federal regulation undermine carbon credits' interchangeability.[56] If project-based carbon credits are not truly commodities, then they fall even further outside of the CFTC's domain.

THE FATE OF THE CFTC'S GUIDANCE ON CARBON CREDIT DERIVATIVES

The relative insignificance of the CFTC's guidance on carbon credit derivatives did not save it from political headwinds that culminated in the guidance's withdrawal. Consistent with the CFTC's statutory authority, the guidance applied only to carbon credit derivatives, not to spot and forward purchases of carbon credits.[57] At the time the CFTC finalized the guidance, there were only three carbon credit derivatives trading on the market.[58] Moreover, agency guidance is non-binding, and the CFTC emphasized that the guidance merely explained how existing legal obligations might apply to this "new and evolving class of products."[59] Even so, in early 2025, one senator introduced a bill to disapprove of the CFTC guidance under the Congressional Review Act.[60] Had the bill passed, it would have invalidated the guidance and blocked the CFTC from reissuing "substantially the same" guidance in the future.[61] Under new leadership following the change in presidential administration, the CFTC ultimately withdrew the guidance in 2025.[62]

The Securities and Exchange Commission (SEC)

Another financial regulator that could fill this role is the SEC, which has also shown some interest in the voluntary carbon market. In particular, the SEC's climate-related financial disclosures rule would have required that public companies and other securities issuers make certain carbon-credit-related disclosures in their registration statements and periodic reports for investor-protection purposes, consistent with the SEC's existing statutory authority.[63] (The rule will likely never take effect: Industry groups and various state attorneys general immediately challenged the rule in court,[64] and that litigation is currently paused while the SEC, under new leadership after the change in presidential administration, prepares to rescind the rule.[65]) The SEC also brought an anti-fraud enforcement action against the same clean-cookstoves project developer that the CFTC targeted, alleging that the project developer had made material false or misleading statements or omissions when offering and selling shares in its business.[66]

Ultimately, however, carbon credits do not fit neatly within the SEC's regulatory regime because they are not securities. Nor does the SEC regulate the quality of securities (that is, their likelihood of profiting investors) or have the technical expertise it would need to regulate carbon credit integrity. At the same time, the SEC has potentially useful experience administering a complex set of disclosure requirements for securities issuers and overseeing financial accounting and auditing standards. Though not an ideal regulator for project-based carbon credits, this experience might make the SEC better suited to this task than the CFTC would be.

The SEC regulates securities, which the Securities Act of 1933 defines to include a long list of financial instruments, including notes, stocks, bonds, and investment contracts.[67] But transactions involving carbon credits are probably not securities. An investor purchases a security to earn a profit over time, whereas entities buy carbon credits to use them to counteract their GHG emissions.[68] Instead, a carbon credit is a tradeable unit that represents an environmental benefit: a metric ton of reduced or removed GHG emissions.[69] As a result, carbon credits do not fit neatly within the SEC's existing regulatory regime. The SEC's existing actions related to the voluntary carbon market reveal this limitation: In both instances, the SEC's authority applied (or would have applied) only indirectly to companies that happened to issue securities.

In addition, while the SEC has significant disclosure authority and anti-fraud enforcement authority in the context of securities issuances, it does not prevent unprofitable companies that meet the SEC's registration and disclosure requirements from issuing "low-quality" securities (securities with no chance of generating profits for investors). Like the CFTC, the SEC may therefore not be the best fit for regulating project-based carbon credits to the extent that such regulation will involve setting and enforcing integrity standards. Even if the SEC had experience setting and enforcing integrity standards for securities, it would still lack the technical expertise to do so for project-based carbon credits.

Nonetheless, the voluntary carbon market could benefit from enhanced disclosures related to the integrity of carbon credits—for instance, more standardized and complete disclosures about the inherent risks and uncertainties that affect the underlying emissions reductions or removals. And the SEC has extensive experience administering a different, though similarly complex and technical, set of disclosure requirements. To protect investors, the SEC requires securities issuers to make certain disclosures (such as disclosures about how their businesses operate and material risks they face) in registration statements and, for public companies, also in periodic reports filed with the SEC.[70] The SEC's experience administering its disclosure regime may make the SEC a more attractive choice than the CFTC, even though both agencies lack technical expertise related to project-based carbon credits.

One other aspect of the SEC's regulatory regime could make it a stronger fit than the CFTC. The SEC has long required public companies and other securities issuers to include financial statements as part of their registration statements and periodic reports,[71] and the Securities Act of 1933 and the Securities Exchange Act of 1934 empower the SEC to adopt accounting standards to govern these disclosures.[72] In response to widespread corporate scandals in the early 2000s, the Sarbanes-Oxley Act expanded the SEC's oversight of public companies' financial accounting and auditing.[73] The statute created a Public Company Accounting Oversight Board (PCAOB) under SEC supervision to register accounting firms, adopt and maintain standards for audit reports, and enforce registered accounting firms' compliance with the relevant provisions of federal securities law, the PCAOB's rules, and professional accounting standards.[74] The Sarbanes-Oxley Act further directed the SEC to address auditor independence and other conflicts of interest,[75] impose greater responsibility on corporate officers for issuers' financial reports,[76] and require additional disclosures related to companies' financial reports and internal auditing controls.[77] The SEC thus has experience addressing structural problems that had precipitated high-profile corporate scandals and a crisis of confidence in U.S. capital markets; some of those structural problems, including misaligned incentives and conflicts of interest, resemble those in the voluntary carbon market.

The SEC's oversight of financial accounting and auditing could prove useful if the SEC were to regulate proj-

ect-based carbon credits. Some observers have pointed out that another kind of accounting, GHG accounting, informs the issuance of project-based carbon credits. But despite both being called "accounting," financial accounting and GHG emissions accounting involve different expertise (although some have proposed modeling GHG emissions accounting more closely after financial accounting).[78] Familiarity with GHG emissions accounting—which both EPA and DOE have—is more relevant than the SEC's oversight of financial accounting.

The Federal Trade Commission (FTC)

Of these potential agency leads, the FTC may have the greatest existing authority to regulate aspects of the voluntary carbon market—in particular, claims about, or based on, project-based carbon credits (as explained below). When it comes to setting and enforcing integrity standards for carbon credits, the FTC's focus on consumer products may also make it better suited than other market regulators. But like those other market regulators, the FTC lacks experience regulating the quality of consumer products and lacks technical expertise to assess carbon credit integrity.

Compared with the SEC and CFTC, carbon credits may fall more clearly within the FTC's purview as a consumer protection regulator. Unlike derivatives and securities, carbon credits are purchased by companies and individuals to serve a non-financial purpose: to counteract their GHG emissions. In this way, carbon credits might more closely resemble consumer products than financial products. The FTC Act created the FTC to protect consumers in interstate commerce.[79]

When it comes to regulating project-based carbon credits, the FTC's most relevant experience probably relates to its authority to prevent "persons, partnerships, or corporations"[80] from engaging in "deceptive acts or practices in or affecting commerce" and enforcing the FTC Act's prohibition on such conduct.[81] In fact, the FTC has used this authority to bring enforcement actions related to other environmental marketing claims.[82] It also maintains guidance called the Green Guides to help marketers avoid deceptive environmental claims.[83] The latest version, from 2012, even includes a brief section targeted at carbon credit sellers.[84]

But the FTC's authority probably applies more broadly in the voluntary carbon market context than these existing actions would suggest. In particular, the FTC Act might apply to two types of conduct in the voluntary carbon market: (1) overstatements by project developers of the emissions reductions or removals represented by the carbon credits they sell and (2) misleading net-zero, carbon-neutral, and other offsetting claims by carbon credit buyers.[85]

Importantly, however, the FTC may have limited effectiveness as a potential regulator of project-based carbon credits. First, similar to the CFTC and the SEC, the FTC does not generally set and enforce quality standards for consumer products. Instead, the FTC's authority to address deceptive acts or practices is disclosure-based. After all, a claim is not deceptive if it is "clear[ly], prominent[ly], and understandabl[y]" qualified.[86]

Second, the FTC may lack the technical expertise it would need to identify conduct prohibited by the FTC Act. To illustrate, imagine that the FTC wanted to bring enforcement actions against project developers that overstate the emissions reductions or removals represented by the carbon credits they sell—that is, that sell low-integrity carbon credits. The FTC may struggle to assess the carbon credits' integrity or to establish that the credits suffered from integrity problems. For instance, the FTC may not have the information, let alone the technical knowledge, to show that a project was non-additional—that it would have been implemented regardless of whether the project developer could sell carbon credits for it. The FTC may also lack expertise to evaluate whether a project developer adequately accounted for reversal risks or leakage. While the FTC has brought enforcement actions related to other types of environmental marketing claims, those actions have generally turned on relatively straightforward factual questions (for example, whether a product was made of bamboo or rayon).[87]

To be sure, the FTC may have a slightly easier time using other tools in the regulatory toolkit the FTC Act gives it. Beyond the case-by-case enforcement discussed above, the FTC also issues interpretive rules, general statements of policy, and other guidance to clarify what conduct may count as a deceptive act or practice

in particular contexts.[88] To prevent deceptive acts or practices, the FTC also prescribes disclosure requirements for certain products, occasionally even designating specific tests or verification procedures for making the required disclosures.[89] The FTC has exercised these authorities in other highly technical contexts before, including in electronic equipment.[90] To shape broader-reaching (as opposed to case-by-case) actions, the FTC can more easily seek input from experts. At the same time, the FTC's lack of relevant technical expertise still limits its suitability for regulating project-based carbon credits, especially compared to EPA and DOE.

FTC REGULATION OF CARBON CREDIT-RELATED CLAIMS

This policy brief focuses on regulation of project-based carbon credits to address the integrity problems, misaligned incentives, and market failures outlined in the Introduction. Whatever role the FTC might play there, whether and how to regulate misleading offsetting claims (a form of greenwashing) is a separate but related question.

Ensuring that carbon credits represent the claimed level of emissions reductions or removals would help corporate buyers avoid relying on low-integrity credits when making net-zero, carbon-neutral, and other offsetting claims. At the same time, questions may remain about whether regulation could improve the accuracy of offsetting claims in general (even those based on high-integrity carbon credits) and minimize their likelihood of misleading consumers. For example, a requirement that companies make additional disclosures—such as information about the underlying carbon credits, statements of the company's gross emissions alongside their net emissions, or details about the extent of the company's efforts to directly reduce its emissions without relying on offsets—could further these goals. Section 5 of the FTC Act (discussed above) may already authorize the FTC to regulate in this way.

Self-regulatory organization model

Particularly in financial regulation, Congress has sometimes endorsed a model whereby a federal agency oversees a so-called "self-regulatory organization" that carries out a specialized role within the agency's regulatory regime.

The PCAOB is one example. As explained above, the Sarbanes-Oxley Act created the PCAOB, a nonprofit that operates under the SEC's oversight and includes five members appointed by the SEC for a set term.[91] The PCAOB supervises accounting firms and develops standards for audit reports, and the SEC has oversight and enforcement authority over it.[92] PCAOB rules must generally obtain SEC approval, and the SEC reviews final disciplinary actions by the PCAOB.[93]

Another potential model is reflected in the CFTC's guidance on carbon credit derivatives, which addressed CFTC-regulated exchanges—another kind of self-regulatory organization that designs and lists derivatives contracts and provides a forum for market participants to trade them.[94] These exchanges must comply with certain requirements set out in the Commodity Exchange Act as well as CFTC regulations.[95]

This regulatory structure can mitigate, but not eliminate, gaps in an agency's capacity, experience, or expertise. At the same time, some have argued that self-regulatory organizations are prone to conflicts of interest that interfere with the relevant regulator's purposes,[96] and the voluntary carbon market already suffers from misaligned incentives that impede carbon credit integrity. As a result, direct regulation by an agency with a relevant mission, experience, and expertise—like EPA or DOE—is likely the best way to address the carbon credits' integrity problems.

TABLE 2.

Potential regulators' mission alignment, experience, and expertise

Agency	Suitability for regulating project-based carbon credits
EPA	• Strongest **mission alignment** • Most significant **relevant agency experience and technical expertise** (in particular, experience with emissions-offsetting programs that involve similar integrity concerns and experience with mandatory GHG emissions reporting)
DOE	• Strong **mission alignment**, particularly compared to most alternatives • **Relevant agency experience and technical expertise**, particularly compared to most alternatives (for example, experience with voluntary GHG emissions reporting, modeling capabilities, specialized knowledge of energy-related projects, and limited experience with credit-trading programs)
FTC	• Moderate **mission alignment** given focus on consumer products • Limited **relevant agency experience and technical expertise** (experience addressing deceptive environmental marketing claims, but lack of experience regulating quality of consumer products and lack of specialized knowledge related to carbon credits)
SEC	• Low **mission alignment** given focus on securities • Limited **relevant agency experience and technical expertise** (experience administering a complex disclosure regime and overseeing financial accounting and auditing to address misaligned incentives, but lack of experience regulating securities' quality and lack of specialized knowledge related to carbon credits)
CFTC	• Low **mission alignment** given focus on derivatives rather than on underlying commodities (and uncertainty as to whether carbon credits are fungible like other commodities) • Limited **relevant agency experience and technical expertise** (attempts to address extreme fraud in the voluntary carbon market and to develop guidance for carbon credit derivatives, but lack of experience directly regulating commodity quality and lack of specialized knowledge related to carbon credits)
USDA	• Conflicting **mission alignment** likely to perpetuate or exacerbate integrity problems • Limited **relevant agency experience and technical expertise** (specialized knowledge of land-based projects and experience facilitating USDA constituents' participation in environmental services markets)

Who should regulate project-based carbon credits? Lessons from other jurisdictions

Experience from other jurisdictions reinforces that environmental and energy agencies are often the strongest candidates to regulate project-based carbon credits. Where governments have either directly regulated carbon credits or run mandatory compliance carbon markets, they have generally assigned legal authority to environmental and energy regulators. Direct regulation of carbon credits is rare, but a significant example—Australia—fits this pattern. So, too, do many compliance carbon markets across the United States and around the world.

Unlike other jurisdictions, Australia directly regulates project-based carbon credits across both the voluntary carbon market and compliance markets in Australia. Created by statute to implement specified climate and biodiversity policies,[97] Australia's federal Clean Energy Regulator issues Australian carbon credit units (called ACCUs) and tracks transfers and retirements of these credits.[98] Demand for these credits comes from both compliance markets in Australia and voluntary participation by individuals and businesses aiming to counteract their emissions.[99]

When it comes to regulation of compliance markets—as opposed to direct regulation of project-based carbon credits across both compliance markets and the voluntary carbon market—U.S. states have also tended to place the relevant authority with environmental and energy regulators. The three states with their own compliance markets (California, Washington, and Oregon) all rely on environmental regulators to administer these programs.[100] In addition, ten states in the Northeast and Mid-Atlantic region currently participate in a regional compliance market, the Regional Greenhouse Gas Initiative.[101] These states have also relied on environmental or energy agencies to implement this program. For example, in some states like Massachusetts and New York, the state environmental regulator creates and updates the program's implementing regulations, while a state energy entity runs allowance auctions.[102] Meanwhile, in other states such as Maine, the state's environmental agency has primary responsibility for administering the program.[103]

Like these U.S. states, foreign jurisdictions have often tasked environmental and energy regulators with overseeing compliance markets. For example, in the European Union (EU), the European Commission's Directorate-General for Climate Action governs the EU emissions trading system (ETS).[104] In the United Kingdom, a joint body of the U.K. government, devolved governments, and relevant environmental ministries (collectively referred to as the U.K. ETS Authority) runs the U.K. ETS.[105] In East Asia, South Korea's Ministry of Climate, Energy and Environment operates the country's ETS,[106] while in Japan's forthcoming ETS, Japan's Ministry of the Environment and Ministry of Economy, Trade, and Industry will jointly administer the program.[107]

The cross-jurisdictional pattern of tasking environmental or energy regulators with overseeing compliance carbon markets (and, in Australia's case, carbon credits across both compliance and voluntary markets) is consistent with the analysis above, and it has two main benefits. First, these regulators' missions often match the purpose of carbon markets—reducing and removing GHG emissions. Environmental regulators, in particular, already focus on pollution and climate change, which helps ensure carbon markets are aligned with broader climate goals. Energy regulators may be less directly focused on emissions, but their responsibility for renewable-energy, energy-security, and decarbonization policies still connects closely to these markets. Carbon markets can also support energy regulators' goals, such as by expanding renewable energy and meeting growing energy demand.

Second, environmental and energy regulators may already have relevant experience and expertise—such as with GHG accounting and reporting, emissions modeling, and emissions-offsetting or other credit-trading schemes—that can support effective oversight of carbon markets. Energy regulators may also bring relevant technical knowledge about energy systems.

THE ROLE OF FOREIGN FINANCIAL MINISTRIES

In some cases, financial ministries have authority to regulate other aspects of carbon markets. Many countries' financial ministries define tax treatment of carbon credits, link national carbon credit markets to domestic carbon tax systems, and determine revenue allocation from allowance auctions and transactions in compliance markets.[108] These responsibilities are primarily tied to domestic carbon taxes or emissions trading systems, so this example does not map neatly onto the U.S. context.

Policy recommendation and conclusion

EPA and DOE have sufficiently relevant missions, experience, and expertise to competently regulate project-based carbon credits. EPA's mission—addressing environmental pollution—aligns closely with carbon credits' intended purpose of reducing and removing GHG emissions. EPA also has substantial experience implementing various emissions-offsetting programs—including addressing similar integrity problems to those that affect many carbon credits—and running a mandatory GHG emissions reporting program. As for DOE, it has administered a voluntary GHG reporting program, also grappling with similar integrity concerns. In addition, DOE has specialized knowledge relevant to energy-related projects, strong modeling capabilities, and limited experience overseeing a credit-trading program for alternative-fueled vehicles that could inform its regulation of carbon credits.

Choosing between EPA and DOE may depend on political realities. The idiosyncrasies of the political process and the preferences of key members of Congress could determine the choice of agency or the ability to enact a new statute at all. The Providing Reliable, Objective, Verifiable Emissions Intensity and Transparency (PROVE IT) Act illustrates the complex and often unpredictable nature of these political realities. Introduced by Senator Chris Coons and cosponsored by several Democrats and Republicans, the PROVE IT Act would have directed DOE to study the emissions intensity of U.S. manufacturing, thus facilitating international trade after Europe's adoption of a carbon border adjustment mechanism.[109] But amid concerns by some members of Congress that the bill could lead to a domestic carbon tax, the bill failed.[110] Later, however, language from the PROVE IT Act passed, unnoticed by some of the bill's opponents, as part of a larger spending package.[111] Similar developments could affect the likelihood of Congress passing a statute that authorizes EPA or DOE to regulate carbon credits. Beyond the choice of agency, any statute would also need to ensure that the designated agency has sufficient staff and resources to administer regulations effectively, as even well-designed legal authority will fall short without adequate institutional capacity to carry it out.

Another consideration is the durability of regulations under a new statute across presidential administrations, but it is not clear that either agency has an advantage on this point. As the nation's environmental regulator, EPA is at the forefront of many of the current presidential administration's efforts to undo past climate regulation. But DOE and other agencies have also abandoned, withdrawn, or weakened their climate-related regulations. The fate of the SEC's climate-related financial disclosures rule and the CFTC's carbon credit derivatives guidance (discussed above) underscores that any agency action perceived as climate-related faces significant risks when political winds shift.

To be sure, whatever choice Congress might make between EPA and DOE, other agencies may have relevant authority and experience to regulate other, related aspects of carbon markets (aside from project-based carbon credits themselves). For instance, as discussed above, the FTC is well-positioned to regulate offsetting claims by carbon credit buyers, and it arguably already has authority to do so.[112] Similarly, to the extent that

carbon credit derivatives markets exist, the CFTC has relevant authority and experience to regulate those markets.[113]

Beyond the choice of which agency to empower, Congress will need to weigh other important considerations that are beyond the scope of this policy brief. The timing of federal regulation is one example. For now, the voluntary carbon market remains in flux. Recent stakeholder initiatives like the Integrity Council for the Voluntary Carbon Market have attempted to settle ongoing debates about what constitutes a high-integrity carbon credit. But other groups continue to explore whether alternative carbon-crediting frameworks might more fully account for the risks and uncertainties involved in crediting emissions reductions and removals.[114] If federal regulation occurs too early, it could ossify non-optimal frameworks and preclude beneficial innovations.

In addition, the complexity of, and interrelation among, the integrity problems, misaligned incentives, and market failures that affect project-based carbon credits necessitate careful policy design. In particular, Congress will need to evaluate which combination of regulatory functions to empower or require an agency to fulfill. An agency could simply set and enforce integrity standards, otherwise leaving carbon markets' operations undisturbed. Or, like the Clean Energy Regulator in Australia, it could assume the more active role of issuing and tracking carbon credits or even fully administering a voluntary emissions-offsetting program.

Finally, Congress should avoid infringing upon states' authority. Some state-run compliance markets permit regulated entities to apply carbon credits toward a portion of their compliance obligations; those states set requirements for such carbon credits.[115] States may also seek to regulate aspects of the voluntary carbon market. For instance, while no state has attempted to directly regulate which carbon credits can trade on the market, California passed a law in 2023 that requires entities that market, sell, or make offsetting claims based on carbon credits within California to provide certain disclosures on their websites, including specified details about the underlying projects.[116] Congress should clarify that any federal requirements set a floor rather than a ceiling and should not preempt regulation by states.

Endnotes

1 Shortell, Erin, and Chris Holt. *Demystifying the Voluntary Carbon Market.* Institute for Policy Integrity, 2025, 2. https://policyintegrity.org/publications/detail/demystifying-the-voluntary-carbon-market.

2 For a further discussion of the difference between compliance markets and the voluntary carbon market, *see Shortell and Holt, Demystifying the Voluntary Carbon Market,* 5-6.

3 *See, e.g.,* Probst, Benedict S., Malte Toetzke, Andreas Kontoleon, et al. "Systematic Assessment of the Achieved Emission Reductions of Carbon Crediting Projects." *Nature Communications* 15, no. 1 (2024): 9562. https://doi.org/10.1038/s41467-024-53645-z; Trencher, Gregory, Sascha Nick, Jordan Carlson, and Matthew Johnson. "Demand for Low-Quality Offsets by Major Companies Undermines Climate Integrity of the Voluntary Carbon Market." Nature Communications 15, no. 1 (2024): 6863. https://doi.org/10.1038/s41467-024-51151-w.

4 *See* Shortell, Erin E., and Donald L. R. Goodson. *Regulating the Voluntary Carbon Market.* Institute for Policy Integrity, 2025. https://policyintegrity.org/publications/detail/regulating-the-voluntary-carbon-market; Shortell and Holt, *Demystifying the Voluntary Carbon Market,* 14-15. (explaining the typical flow of payment among project developers, crediting programs, validation and verification bodies, and buyers); *see also* Battocletti, Vittoria, Luca Enriques, and Alessandro Romano. "The Voluntary Carbon Market: Market Failures and Policy Implications." *University of Colorado Law Review* 95, no. 3 (2024): 519–73; Cary Coglianese and Cynthia Giles, "Third-Party Auditing Cannot Guarantee Carbon Offset Credibility," SSRN Scholarly Paper no. 5345783 (Social Science Research Network, June 15, 2025), 1-2, https://doi.org/10.2139/ssrn.5345783.

5 Holt, Chris, Burçin Ünel, and Mythili Vinnakota. *The Economics of the Voluntary Carbon Market.* Institute for Policy Integrity, 2026. https://policyintegrity.org/publications/detail/the-economics-of-the-voluntary-carbon-market; Atal, Raimundo, and Derek Sylvan. *Integrity, Equivalence, and Imperfect Carbon Offsets.* Institute for Policy Integrity, 2025. https://policyintegrity.org/publications/detail/integrity-equivalence-and-imperfect-carbon-offsets.

6 US EPA, "Reorganization Plan No. 3 of 1970," Overviews and Factsheets, July 9, 1970, https://www.epa.gov/archive/epa/aboutepa/reorganization-plan-no-3-1970.html; 40 C.F.R. § 1.1.

7 42 U.S.C. §§ 7408–09; US EPA, "Reviewing National Ambient Air Quality Standards (NAAQS): Scientific and Technical Information," Collections and Lists, September 9, 2016, https://www.epa.gov/naaqs.

8 See 42 U.S.C. §§ 7410(a)(1), (2)(A), (2)(C). In particular, Section 110 directs each state to periodically submit a state implementation plan to attain the National Ambient Air Quality Standards. 42 U.S.C. § 7410(a)(1). Each state plan must include "enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights" and "a program to provide for the enforcement of [these measures], and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program." 42 U.S.C. §§ 7410(a)(2)(A), (C).

9 See 42 U.S.C. §§ 7502(c)(4)–(5), 7503. Each time EPA updates the National Ambient Air Quality Standards, states must identify nonattainment areas. 42 U.S.C. §§ 7407(d)(1)(A)(i), (B)(i). Section 172 requires each state with designated nonattainment areas to submit a plan for attaining the standards within a specified timeframe. 42 U.S.C. §§ 7502(a)(2), (b)–(c).

10 See 42 U.S.C. § 7503(a)(1)(A).

11 42 U.S.C. § 7503(c)(1).

12 See 42 U.S.C. § 7503; 40 C.F.R. §§ 51.165, 52.24; 40 C.F.R. pt. 51, app. S.

13 42 U.S.C. § 7503(c)(2) ("Emission reductions otherwise required by this chapter shall not be creditable as emissions reductions for purposes of any such offset requirement.").

14 40 C.F.R. § 51.165(a)(3).

15 40 C.F.R. § 51.165(a)(3). EPA regulations require shutdowns of existing pollution sources or curtailments in production or operating hours to be permanent for an existing facility to receive credit for the resulting emissions reductions. 40 C.F.R. § 51.165(a)(3)(ii)(C). For a facility that intends to rely on emissions reductions achieved through fuel-switching, the state must condition the permit on "the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date." 40 C.F.R. § 51.165(a)(3)(ii)(B).

16 *See* 42 U.S.C. § 7503(c)(1); *see also* 40 C.F.R. § 51, app. S, pt. IV.A (explaining that emissions offsets should "provide a positive net air quality benefit in the affected area"). A similar logic seemingly informs the exception to the requirement that a facility obtain offsets from within the same nonattainment area: "[T]he State may allow the owner or operator of a source to obtain such emission reductions in another nonattainment area if (A) the other area has an equal or higher nonattainment classification than the area in which the source is located and (B) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located." 42 U.S.C. § 7503(c)(1).

17 42 U.S.C. § 7503(a); 40 C.F.R. § 51.165(a)(3)(ii)(E).

18 40 C.F.R. § 51, app. S, pt. V(A)(2).

19 The infamous Kariba project underscores the risks buyers face when they rely on crediting programs to ensure that buyers receive compensation when their previously purchased carbon credits turn out to have serious integrity problems. See Jim Giles, "Volkswagen, TotalEnergies Face Risks over 'Limbo' Carbon Credits," Trellis, October 9, 2025, https://trellis.net/article/verra-kariba-investigation-risk-volkswagen-totalenergies-carbon-neutral-claims/.

20 Al McGartland, "Thirty Years of Economics at the Environmental Protection Agency," *Agricultural and Resource Economics Review* 42, no. 3 (2013): 436–52, https://doi.org/10.1017/S1068280500004925.

21 40 C.F.R. § 98; Mandatory Reporting of Greenhouse Gases, 74 Fed. Reg. 56260, 56264–65 (Oct. 30, 2009).

22 Reconsideration of the Greenhouse Gas Reporting Program, 90 Fed. Reg. 44591 (Sept. 16, 2025).

23 42 U.S.C. §§ 7111, 7112.

24 Guidelines for Voluntary Greenhouse Gas Reporting, 71 Fed. Reg. 20784, 20784 (Apr. 21, 2006); 10 C.F.R. § 300.

25 42 U.S.C. § 13385(b). The statute also tasked DOE, in consultation with EPA, with developing and annually updating a national GHG emissions inventory. 42 U.S.C. § 13385(a).

26 *See* 10 C.F.R. § 300; Rescinding Reporting Requirements, Certification, Independent Verification, and DOE Review for Voluntary Greenhouse Gas Reporting, 90 Fed. Reg. 20828 (May 16, 2025). DOE proposed "to rescind the reporting requirements, certification statements, the encouragement of independent verification, and DOE review" while retaining "detailed procedures for voluntarily calculating and submitting greenhouse gas emissions." 90 Fed. Reg. at 20829.

27 10 C.F.R. § 300.8(j).

28 10 C.F.R. § 300.10(c)(1)–(2).

29 *See* 10 C.F.R. § 300.10(c)(3).

30 42 U.S.C. § 7135

31 10 C.F.R. § 300.12(a)–(b).

32 10 C.F.R. §§ 300.10(c)(6), 300.11.

33 10 C.F.R. § 300.12(b).

34 10 C.F.R. §§ 300.1(b)(2), 300.2 (defining "Offset").

35 U.S. Department of Energy, "GREET," Energy.Gov, May 18, 2026, https://www.energy.gov/cmei/greet.

36 U.S. Department of Energy, "GREET."

37 "ICAO-GREET Model," Argonne National Laboratory, accessed May 19, 2026, https://greet.anl.gov/greet_icao.

38 42 U.S.C. §§ 13211–12, 13251, 13257–58.

39 42 U.S.C. § 13258(b)–(c); 10 C.F.R. § 490.503–04. The Department of Transportation operates a similar credit-trading program as part of its corporate average fuel economy standards. *See* 49 U.S.C. § 32903. Like many other federal agencies, the Department of Transportation is not discussed in this report because, given its mission and experience, it is not a logical choice to regulate project-based carbon credits, and to the authors' knowledge, other groups have not highlighted it as a potential option.

40 42 U.S.C. § 13258(d)–(e); 10 C.F.R. § 490.505, 490.507. Entities that receive credits from DOE can also bank them to meet their own future compliance needs.

41 10 C.F.R. §§ 490.506, 490.07(b). 490.508.

42 U.S. Department of Agriculture, "USDA Roles in Market-Based Environmental Stewardship," accessed May 19, 2026, 2, https://www.usda.gov/directives/dr-5600-003.

43 16 U.S.C. § 3845(a).

44 16 U.S.C. § 3845(b).

45 16 U.S.C. § 3845(c).

46 *See* 7 U.S.C. §§ 2201, 2204.

47 *See* U.S. Department of Agriculture, "USDA Roles in Market-Based Environmental Stewardship," 2; see also 16 U.S.C. § 3845.

48 Shortell and Goodson, *Regulating the Voluntary Carbon Market*, 12-16.

49 *See* 7 U.S.C. §§ 2(a)(2)(A), 5.

50 Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 9-11.

51 *See* 7 U.S.C. § 5; see also Shortell and Goodson, Regulating the Voluntary Carbon Market, 9-12.

52 *See* Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 12-17.

53 *See* Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 6, 16.

54 Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 7-8.

55 Shortell & Goodson at 7. A commodity is fungible if each unit is equivalent and therefore interchangeable with any other unit of the same commodity. Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 7.

56 Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 7; Philippe Delacote et al., *Fixing Carbon Credit Markets: Transparency, Quality, and Fungibility* (The Brookings Institution, forthcoming).

57 Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 12-13.

58 Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 11.

59 Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts, 89 Fed. Reg. 83378, 83378, 83400 (Oct. 15, 2024).

60 John Kennedy, "Text - S.J.Res.9 - 119th Congress (2025-2026): A Joint Resolution Providing for Congressional Disapproval under Chapter 8 of Title 5, United States Code, of the Rule Submitted by the Commodity Futures Trading Commission Relating to 'Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts'.," legislation, January 30, 2025, 2025-01-30, https://www.congress.gov/bill/119th-congress/senate-joint-resolution/9/text.

61 John Kennedy, "Text - S.J.Res.9 - 119th Congress (2025-2026): A Joint Resolution Providing for Congressional Disapproval under Chapter 8 of Title 5, United States Code, of the Rule Submitted by the Commodity Futures Trading Commission Relating to 'Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts'.," legislation, January 30, 2025, 2025-01-30, https://www.congress.gov/bill/119th-congress/senate-joint-resolution/9/text.

62 Notice of withdrawal of Commission Guidance, 90 Fed. Reg. 44321 (Sept. 15, 2025).

63 Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 20-21.

64 *See* State of Iowa v. Sec. & Exch. Comm'n, No. 24-1522 (8th Cir. Filed Mar. 12, 2024).

65 *See* Order, State of Iowa v. Sec. & Exch. Comm'n, No. 24-1522 (8th Cir. Sept. 12, 2025); *see also* Order, State

of Iowa v. Sec. & Exch. Comm'n, No. 24-1522 (8th Cir. May 21, 2026).

66 Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 23-24.

67 15 U.S.C. § 77b(a)(1) ("The term 'security' means any note, stock, treasury stock, security future, security-based swap, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, or, in general, any interest or instrument commonly known as a 'security', or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.").

68 Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 18-19. Though there is often limited transparency about the role of intermediaries in the voluntary carbon market, even intermediaries' purchases of carbon credits probably do not qualify as securities. Intermediaries purchase carbon credits and resell them at a mark-up, profiting by offering a service: connecting project developers and end buyers. Shortell & Goodson at 19.

69 Shortell and Goodson, *Regulating the Voluntary Carbon Market*, 2.

70 *See, e.g.,* 15 U.S.C. §§ 77e, 77g, 77j, 77aa, 78l, 78m, 78o(d); 17 C.F.R. §§ 210, 229. Similar to the CFTC, the SEC also has anti-fraud authority to address material false or misleading statements or omissions made in connection with the offer, sale, and purchase of securities. 15 U.S.C. §§ 77q(a), 78j(b); 17 C.F.R. § 240.10b-5.

71 *See* 17 C.F.R. § 210.

72 15 U.S.C. §§ 77s(a)–(b); 78m(b).

73 Michael Peregrine and Charles Elson, "The Important Legacy of the Sarbanes Oxley Act," *The Harvard Law School Forum on Corporate Governance,* August 30, 2022, https://corpgov.law.harvard.edu/2022/08/30/the-important-legacy-of-the-sarbanes-oxley-act/.

74 15 U.S.C. §§ 7211–15, 7217.

75 *See* 15 U.S.C. §§ 78o-6, 7233, 7242.

76 15 U.S.C. §§ 7241, 7243; 18 U.S.C. § 1350.

77 15 U.S.C. §§ 7261(b), 7262, 7264–65.

78 "What Are E-Ledgers?," *E-Ledgers Institute*, n.d., accessed May 19, 2026, https://e-ledgers.institute/what-are-e-ledgers/.

79 *See* 15 U.S.C. §§ 41 et seq.

80 Note that the FTC does not regulate the conduct of nonprofits. 15 U.S.C. § 45(a). Most if not all crediting programs in the voluntary carbon market are nonprofits. Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 25.

81 15 U.S.C. § 45(a). Congress also granted the FTC authority to prevent unfair competitive methods (like trusts and monopolies) and unjustified consumer injury (like "overt coercion" or the "exercise [of] undue influence over highly susceptible classes of purchasers"). 15 U.S.C. § 45(a); "FTC Policy Statement on Unfairness," Federal Trade Commission, June 24, 2014, https://www.ftc.gov/legal-library/browse/ftc-policy-statement-unfairness.

82 *See* "Cases Tagged with Environmental Marketing," Federal Trade Commission, February 13, 2026, https://www.ftc.gov/enforcement/cases-proceedings/terms/1408.

83 16 C.F.R. § 260.

84 *See* 16 C.F.R. § 260.5. For further discussion of this section of the Green Guides, see Shortell and Goodson, *Regulating the Voluntary Carbon Market* 26-27.

85 Shortell and Goodson, *Regulating the Voluntary Carbon Market*, 28-32.

86 16 C.F.R. § 260.3(a); see also Federal Trade Commission, "FTC Policy Statement on Unfairness."
87 *See* Federal Trade Commission, "Cases Tagged with Environmental Marketing."
88 *See* 15 U.S.C. § 57a(a)(1).
89 *See* 15 U.S.C. § 57a(a)(1)(B).
90 *See*, e.g., 16 C.F.R. § 432.2. This FTC regulation requires sellers of home entertainment products that make certain claims about their products' amplifiers to disclose the amplifiers' power output. 16 C.F.R. § 432.2. Such sellers must measure the power output according to the test conditions and procedure set by the FTC. 16 C.F.R. §§ 432.2–432.3.
91 15 U.S.C. § 7211.
92 15 U.S.C. §§ 7211–15, 7217.
93 15 U.S.C. §§ 7217(b)–(c).
94 *See* Commission Guidance Regarding the Listing of Voluntary Carbon Credit Derivative Contracts, 89 Fed. Reg. 83378, 83378 (Oct. 15, 2024); 7 U.S.C. § 7(d)(1)(A).
95 7 U.S.C. § 7(d).
96 *See, e.g.,* Benjamin Edwards, "The Dark Side of Self-Regulation," *Scholarly Works*, January 1, 2017, 604 https://scholars.law.unlv.edu/facpub/1117; James Fallows Tierney, *Overseeing Private Rulemaking: Evidence from SEC Review of SRO Rules,* 2025, https://doi.org/10.58112/JBL.27-2.4.
97 "Clean Energy Regulator Act 2011," 2011, https://www.legislation.gov.au/C2011A00163/latest.
98 Australia Government: Clean Energy Regulator. "Carbon Credits." November 10, 2025. https://cer.gov.au/markets/carbon-credits.
99 "Carbon Credits," Australia Government: Clean Energy Regulator, November 10, 2025, https://cer.gov.au/markets/carbon-credits.
100 *See* "Cap-and-Invest Program," California Air Resources Board, accessed May 20, 2026, https://ww2.arb.ca.gov/our-work/programs/cap-and-invest-program/about; "Cap-and-Invest," Washington State Department of Ecology, accessed May 20, 2026, https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest; "Climate Protection Program," State of Oregon, Department of Environmental Quality, accessed May 20, 2026, https://www.oregon.gov/deq/ghgp/cpp/pages/default.aspx.
101 "Welcome," RGGI, Inc., accessed May 20, 2026, https://www.rggi.org/. The boundaries of RGGI have changed over time. For more information on how RGGI membership has shifted over time, see Elizabeth B. Stein and Erin Shortell, *The Unfinished Roadmap* (Institute for Policy Integrity, 2026), https://policyintegrity.org/publications/detail/the-unfinished-roadmap.
102 *See* Mass. Gen. Laws ch. 21A, § 22 (2008) (the Department of Environmental Protection and the Department of Energy Resources in Massachusetts); Elizabeth B. Stein and Erin Shortell, *The Unfinished Roadmap* (Institute for Policy Integrity, 2026), 19 https://policyintegrity.org/publications/detail/the-unfinished-roadmap.
103 *See* Me. Stat. tit. 38, § 580-B (2007).
104 "About the EU ETS," European Commission, accessed May 20, 2026, https://climate.ec.europa.eu/eu-action/carbon-markets/about-eu-ets_en.
105 *UK Emissions Trading Scheme* (Department for Energy Security and Net Zero, 2025), https://www.nao.org.uk/wp-content/uploads/2025/06/uk-emissions-trading-scheme.pdf.
106 "Korea Emissions Trading System (K-ETS)," International Carbon Action Partnership, November 20, 2025, https://icapcarbonaction.com/en/ets/korea-emissions-trading-system-k-ets.
107 "Japan GX-ETS," International Carbon Action Partnership, April 1, 2026, https://icapcarbonaction.com/en/ets/japan-gx-ets.
108 Raul Delgado et al., *The Role of Finance Ministries in Carbon Markets* (Inter-American Development Bank, 2025), https://publications.iadb.org/publications/english/document/The-Role-of-Finance-Ministries-in-Carbon-Markets.pdf.

109 Amelia Davidson, "Carbon Trade Measure Slips into Spending Package," *E&E News by POLITICO,* January 27, 2026, https://www.eenews.net/articles/carbon-trade-measure-slips-into-spending-package/.

110 Davidson, "Carbon Trade Measure Slips into Spending Package."

111 Davidson, "Carbon Trade Measure Slips into Spending Package."

112 For more on the FTC's existing authority to regulate offsetting claims, see Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 30-31.

113 Shortell and Goodson, *Regulating the Voluntary Carbon Market,* 6-17.

114 *See, e.g.,* Atal and Sylvan, *Integrity, Equivalence, and Imperfect Carbon Offsets*.

115 For instance, in Washington's statewide compliance market, covered entities can use carbon credits instead of allowances to meet up to 8% of their initial compliance obligations, with this amount later falling to 6%. See Wash. Rev. Code § 70A.65.170(3)(a)–(b), (e) (2024); "Cap-and-Invest Linkage," Washington State Department of Ecology, accessed May 20, 2026, https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest/linkage; "Cap-and-Invest Offset Program," Washington State Department of Ecology, accessed May 20, 2026, https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest/offsets. The statute that created Washington's cap-and-invest program requires that the projects that generate these carbon credits produce "real, permanent, quantifiable, verifiable, and enforceable" emissions reductions or removals that "[a]re in addition to greenhouse gas emission reductions or removals otherwise required by law and other greenhouse gas emission reductions or removals that would otherwise occur." Wash. Rev. Code § 70A.65.170(2)(b) (2024). While Washington and other compliance markets have generally borrowed the standards of the voluntary market, states could set higher standards or new requirements for carbon credits usable within their compliance markets.

116 "AB 1305 Voluntary Carbon Market Disclosures," California Legislative Information, October 9, 2023, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1305.

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