

Application of the Oeko-Institut/WWF-US/ EDF methodology for assessing the quality of carbon credits

This document presents results from the application of version 3.0 of a methodology, developed by Oeko-Institut, World Wildlife Fund (WWF-US) and Environmental Defense Fund (EDF), for assessing the quality of carbon credits. The methodology is applied by Oeko-Institut with support by Carbon Limits, Greenhouse Gas Management Institute (GHGMI), INFRAS, Stockholm Environment Institute, and individual carbon market experts. This document evaluates one specific criterion or sub-criterion with respect to a specific carbon crediting program, project type, quantification methodology and/or host country, as specified in the below table. Please note that the CCQI website [Site terms and Privacy Policy](#) apply with respect to any use of the information provided in this document. Further information on the project and the methodology can be found here: www.carboncreditquality.org

Sub-criterion:	1.1.1 Eligibility of mitigation activities that are triggered by legal requirements
Carbon crediting program:	CAR
Assessment based on carbon crediting program documents valid as of:	30 June 2021
Date of final assessment:	20 May 2022
Score:	Efficient Cookstoves: 5 Establishment of natural forest: 3.8 Landfill gas utilization: 5

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Assessment

Plausibility of existence of legal requirements

Relevant scoring methodology provisions

"This methodology first assesses whether it is plausible that the relevant project type is or will be legally required in the relevant geographical area. For some project types and geographical areas, such as the use of efficient cookstoves in least developed countries, it may be very unlikely that any relevant legal requirements exist or will be introduced during the crediting periods. In this case, the provisions of the carbon crediting program regarding legal requirements are not relevant and a score of 5 is assigned to this sub-criterion. Otherwise, the scoring depends on the carbon crediting program's provisions regarding legal requirements."

Assessment outcome

For both landfill gas utilization and establishment of natural forest it is deemed possible that legal requirements exist that could require their implementation. The scoring for these project types therefore depends on the carbon crediting program's provisions regarding legal requirements (see assessment of indicators 1.1.1.1 and 1.1.1.2 below).

For efficient cookstoves it is deemed very unlikely that legal requirements could exist that require their implementation. The project type is therefore assigned a score of 5 for this sub-criterion.

Justification of assessment

Landfill gas utilization: In many countries, landfills are subject to pollution control regulations. This includes air pollution, soil protection and water regulations amongst others. While this does not automatically make landfills subject to specific regulations that require collection and destruction or utilization of landfill gas, the general regulatory environment for the project type makes it plausible that it could be legally required.

Establishment of natural forests: While it is unlikely that general legislation exists that directly mandates the establishment of natural forests it is plausible that in some cases natural forest is established in response to legal mandates. This can occur for example if barren land is designated as a protected area (e.g., in form of national park) and due to the protection, the land is overgrown by natural forests.

Efficient cookstoves: There are no known cases where a legal requirement requires the use of efficient cookstoves.

Indicator 1.1.1.1

Relevant scoring methodology provisions

The methodology evaluates whether the program provisions address how to treat mitigation activities that are legally required and whether a program allows for the registration of mitigation activities that are required by an existing and enforced legally binding mandate. The scores are applied as follows:

Carbon crediting program requirement	Score
The program's provisions exclude from eligibility mitigation activities that are required to be implemented due to existing legal requirements, regardless of whether the legal requirements are enforced or not.	5
The program's provisions exclude mitigation activities from eligibility that are required to be implemented due to existing legal requirements but allow for exemptions from this provision where the legal requirements are systematically not enforced, and non-compliance is widespread in the country.	3
The program's provisions do not specifically address this matter, or the program allows mitigation activities to be registered that are required to be implemented due to existing and enforced legal requirements.	1

Information sources considered

- 1 Reserve Offset Program Manual, Version March 12, 2021
https://www.climateactionreserve.org/wp-content/uploads/2021/03/Reserve_Offset_Program_Manual_March_2021.pdf
- 2 U.S. Landfill Project Protocol, Version 5.0, April 2019 https://www.climateactionreserve.org/wp-content/uploads/2019/07/U.S._Landfill_Project_Protocol_V5.0.pdf
- 3 Forest Protocol, Version 4.0, June 28, 2017
<https://www.climateactionreserve.org/how/protocols/forest/>

Relevant carbon crediting program provisions

Provision 1 Source 1, section 2.4.1.1 “Legal Requirement Test”, pages 7ff: “Projects are very likely to be non-additional if their implementation is required by law. A legal requirement test ensures that eligible projects (and/or the GHG reductions they achieve) would not have occurred anyway in order to comply with federal, state or local regulations, or other legally binding mandates. A project passes the legal requirement test when there are no laws, statutes, regulations, court orders, environmental mitigation agreements, permitting conditions or other legally binding mandates requiring its implementation, or requiring the implementation of similar measures that would achieve equivalent levels of GHG emission reductions.

In Reserve protocols, the specific provisions of the legal requirement test may differ depending on the project type. During protocol development, the Reserve performs a review of existing and pending regulations to identify any specific regulatory requirements that would mandate the implementation of project activities covered by the protocol. If such requirements are identified, then project activities in relevant jurisdictions may be categorically excluded from eligibility.

In addition, Reserve protocols require project developers to review and determine whether federal, state or local regulations and other legal requirements (including local agency ordinances or rulings) require the implementation of their project. This review is always required at the time a project is registered and may be required each verification period thereafter depending on the protocol. Generally, Reserve protocols will stipulate the following:

Project monitoring plans must include procedures that the project developer will follow to periodically ascertain and demonstrate that the project passes the legal requirement test.

Project developers must submit a signed Attestation of Voluntary Implementation form stipulating that the project is not required by law.”

Provision 2 Source 1, section 3.3.7 “Attestation of Voluntary Implementation”, page 27: “All project developers must submit a signed Attestation of Voluntary Implementation form that confirms the project was implemented and established voluntarily and continues to operate as such. The project developer attests that at no time was the project required to be enacted by any law, statute, rule, regulation or other legally binding mandate by any federal, state, local or foreign governmental or regulatory agency having jurisdiction over the project. This form is signed and submitted after the conclusion of each verification period (unless otherwise exempted by the protocol under which the project is registered). The Attestation of Voluntary Implementation, along with activities detailed in the project’s monitoring plan, are the primary mechanisms by which the project passes the legal requirement test, as specified in each protocol.”

Assessment outcome

The carbon crediting program is assigned a score of 5.

Justification of assessment

The carbon crediting program's provisions stipulate that a project passes the legal requirement test when there are no laws, statutes, regulations, court orders, environmental mitigation agreements, permitting conditions or other legally binding mandates requiring its implementation, or requiring the implementation of similar measures that would achieve equivalent levels of GHG emission reductions (Provisions 1 and 2).

The carbon crediting program also specifies that specific provisions might apply to individual methodologies (Provision 1). The analysis of the relevant methodologies for the project types land fill gas utilization (Source 2) and establishment of natural forest (Source 3) do not show any deviation from the provision outlined in the Reserve Offset Program Manual. Therefore, a score of 5 applies.

Indicator 1.1.1.2

Relevant scoring methodology provisions

The methodology assesses the program provisions for changes in legal requirements.

Program requirements if new legal requirements enter into force which require the mitigation activity to be implemented	Score
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The program immediately ceases issuance of credits when the new legal requirements enter into force, regardless of whether they are systematically enforced or not.	5
The program immediately ceases issuance of credits when the new legal requirements are systematically enforced.	3
The program ceases issuance of credits at the end of the current crediting period if new legal requirements entered into force, regardless of whether they are systematically enforced or not.	3
The program ceases issuance of credits at the end of the current crediting period if new legal requirements entered into force and if these are systematically enforced.	2
The program does not specifically address this matter or allows projects to continue to issue carbon credits for the remainder of the project lifetime.	1

Information sources considered

- 1 Reserve Offset Program Manual, Version March 12, 2021
https://www.climateactionreserve.org/wp-content/uploads/2021/03/Reserve_Offset_Program_Manual_March_2021.pdf
- 2 U.S. Landfill Project Protocol, Version 5.0, April 2019 [https://www.climateactionreserve.org/wp-content/uploads/2019/07/U.S. Landfill Project Protocol V5.0.pdf](https://www.climateactionreserve.org/wp-content/uploads/2019/07/U.S._Landfill_Project_Protocol_V5.0.pdf)
- 3 Forest Protocol, Version 4.0, June 28, 2017
<https://www.climateactionreserve.org/how/protocols/forest/>

Relevant carbon crediting program provisions

Provision 1 Source 1, section 2.4.1.1 “Legal Requirement Test”, pages 7ff.: “Projects are very likely to be non-additional if their implementation is required by law. A legal requirement test ensures that eligible projects (and/or the GHG reductions they achieve) would not have occurred anyway in order to comply with federal, state or local regulations, or other legally binding mandates. A project passes the legal requirement test when there are no laws, statutes, regulations, court orders, environmental mitigation agreements, permitting conditions or other legally binding mandates requiring its implementation, or requiring the implementation of similar measures that would achieve equivalent levels of GHG emission reductions.

In Reserve protocols, the specific provisions of the legal requirement test may differ depending on the project type. During protocol development, the Reserve performs a review of existing and pending regulations to identify any specific regulatory requirements that would mandate the implementation of project activities covered by the protocol. If such requirements are identified, then project activities in relevant jurisdictions may be categorically excluded from eligibility.

In addition, Reserve protocols require project developers to review and determine whether federal, state or local regulations and other legal requirements (including local agency ordinances or rulings) require the implementation of their project. This review is always required at the time a project is registered and may be required each verification period thereafter depending on the protocol. Generally, Reserve protocols will stipulate the following:

- Project monitoring plans must include procedures that the project developer will follow to periodically ascertain and demonstrate that the project passes the legal requirement test.
- Project developers must submit a signed Attestation of Voluntary Implementation form stipulating that the project is not required by law.”

Provision 2 Source 1, section 2.4 Project crediting Period, page 11: “Notwithstanding any pre-defined crediting period, projects that become required by law will not be eligible to receive CRTs for the reductions they generate, unless otherwise specified in the protocol. Thus, in most cases, if a project becomes subject to a regulation, ordinance or permitting condition that effectively requires its implementation, the project can no longer be considered additional and its crediting period will be terminated. The crediting period will likewise be terminated if the emission sources affected by a project are included under an emissions cap (e.g., under a state or federal cap-and-trade program) or GHG emissions from the project/project site are directly regulated by a local, state or federal agency. As specified in each protocol, emission reductions may be reported to the Reserve until the date that a regulation or emissions cap takes effect. Details on the allowable crediting period as well as crediting period renewals for each type of project recognized by the Reserve are contained in each protocol.”

Provision 3 Source 1, section 3.3.7 “Attestation of Voluntary Implementation”, page 27: “All project developers must submit a signed Attestation of Voluntary Implementation form that confirms the project was implemented and established voluntarily and continues to operate as such. The project developer attests that at no time was the project required to be enacted by any law, statute, rule, regulation or other legally binding mandate by any federal, state, local or foreign governmental or regulatory agency having jurisdiction over the project. This form is signed and submitted after the conclusion of each verification period (unless otherwise exempted by the protocol under which the project is registered). The Attestation of Voluntary Implementation, along with activities detailed in the project’s monitoring plan, are the primary mechanisms by which the project passes the legal requirement test, as specified in each protocol.”

Provision 4 Source 2, Section 3.4.3 “Legal Requirement Test”, pages 8 ff.: “All projects are subject to a legal requirement test to ensure that the GHG reductions achieved by a project would not otherwise have occurred due to federal, state, or local regulations, or other legally binding mandates. Projects pass the legal requirement test when there are no laws, statutes, regulations, court orders, environmental mitigation agreements, permitting conditions, or other legally binding mandates requiring the destruction of landfill gas methane at the project site. To satisfy the legal requirement test, project developers must submit a signed Attestation of Voluntary Implementation form prior to the commencement of verification activities each time the project is verified. In addition, the project’s Monitoring Plan (Section 6) must include procedures that the project developer will follow to ascertain and demonstrate that the project at all times passes the legal requirement test.

As of the project start date, landfills collecting and destroying landfill gas to comply with regulations or other legal mandates –or that are required by regulation or legal mandate to install a landfill gas control system in the future –are not eligible to register new projects with the Reserve. Landfills collecting and destroying landfill gas to

comply with regulations or other legal mandates are not eligible to register GHG reductions associated with the early installation of gas control systems during landfill expansion into new cells.

If an eligible project begins operation at a landfill that later becomes subject to a regulation, ordinance, or permitting condition that calls for the installation of a landfill gas control system, GHG reductions may be reported to the Reserve up until the date that the installation of a landfill gas control system is legally required to be operational. If the landfill's methane emissions are included under an emissions cap (e.g., under a state or federal cap-and-trade program), emission reductions may likewise be reported to the Reserve until the date that the emissions cap takes effect."

Provision 5 Source 3, section 3.3.1 "Legal Requirement Test", pages 8-9: "The legal requirement test is satisfied if the following requirements are met, depending on the type of Forest Project.

3.3.1.1 Reforestation Projects

At the Forest Project's **initial verification**, the Project Operator must sign the Reserve's Attestation of Voluntary Implementation form indicating that the project's reforestation activities are not legally required (as defined above) and were not legally required at the time of the project's start date. Modelling of the project's baseline carbon stocks must reflect all legal constraints, as required in Section 6.1 of this protocol."

Provision 6 Source 3, section 8.1 "Project Documentation", page 69: "Project Operators must provide the following documentation each time a Forest Project is verified in order for the Reserve to issue CRTs for quantified GHG reductions.

- Monitoring report
- Calculation worksheet
- Verification Report
- Verification Statement
- Signed Attestation of Title form
- Signed Attestation of Regulatory Compliance form
- Signed Attestation of Voluntary Implementation form (**Improved Forest Management projects only**)
- Project Implementation Agreement Amendment
- Conservation Easement (if one is employed)"

Assessment outcome

The carbon crediting program is assigned the following scores:

- A score of 5 for the project type landfill gas utilization

- A score of 1 for the project type establishment of natural forest (referred to as reforestation in the CAR)

Justification of assessment

The carbon crediting program's provisions generally stipulate that projects can only issue carbon credits as long as they are not required due to any legal requirements. This is understood to include new legal requirements entering into force during the crediting period. However, these general provisions allow for exceptions in specific protocols (Provisions 1 to 3).

The project specific provisions are assessed as follows:

Landfill gas utilization

The provisions in the U.S. Landfill Project Protocol clearly stipulate that if an eligible project begins operation at a landfill that later becomes subject to a regulation, ordinance, or permitting condition that calls for the installation of a landfill gas control system, GHG reductions may be reported to the Reserve up until the date that the installation of a landfill gas control system is legally required to be operational (Provision 2).

The provisions applying for the project type landfill gas utilization therefore are assigned a score of 5.

Establishment of natural forest

For establishment of natural forest (referred to as reforestation in CAR) projects, the project operator must sign the Reserve's Attestation of Voluntary Implementation form indicating that the Forest Project's planned forest conservation activities are not legally required and were not legally required at the time of the project's start date. However, **the project operator must submit this form only for the initial reporting period** (See Provision 5 and Provision 6) and not after the conclusion of each period, as is required for example for Natural Forest Management projects. There is only one crediting period of 100 years for establishment of natural forest projects, i.e. there is no re-assessment of legal requirements after the end of a crediting period. The provisions applying for the project type establishment of natural forest therefore are assigned a score of 1.

Scoring results

According to the above assessment, the carbon crediting program achieves the following scores:

- *Efficient cookstoves*: It is deemed very unlikely that legal requirements could exist that require their implementation. The project type is therefore assigned a score of 5 for this sub-criterion.
- *Establishment of natural forest*: It cannot be ruled out that the project type is required to be implemented due to legal requirements. A score of 5 for indicator 1.1.1.1 and a score of 1 for indicator 1.1.1.2. Applying the scoring approach in the methodology, this results in a score of 3.8 for the sub-criterion.
- *Landfill gas utilization*: It cannot be ruled out that the project type is required to be implemented due to legal requirements. A score of 5 for indicator 1.1.1.1 and a score of 5 for indicator 1.1.1.2. Applying the scoring approach in the methodology, this results in a score of 5 for the sub-criterion.