

For Reference Only

The **“Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Agreement Policy”**- is provided here for reference only.

For information on Atmospheric Benefit Rights, please consult Treasury Board Directive 2/15 Authority to dispose of Atmospheric Benefit Rights and enter into Agreements respecting sharing of Atmospheric Benefits Rights:

<https://www2.gov.bc.ca/gov/content/governments/finances/treasury-board-directives>

For information on Atmospheric Benefit Sharing Agreements, please consult:

<https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/atmospheric-benefit-sharing-agreements>

For information on current offset protocols, please visit:

[http://www2.gov.bc.ca/gov/content/environment/climate-change/industry/offset-projects.](http://www2.gov.bc.ca/gov/content/environment/climate-change/industry/offset-projects)



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

PREAMBLE:

The Ministry of Forests, Lands and Natural Resource Operations (FLNRO) has been mandated with the role of the province's land manager. Within that role, all policy and natural resource management decisions on provincial Crown forests and lands follow overarching legislation such as the *Land Act*, *Forest Act* and *Forest and Range Practices Act* under FLNRO's guidance and statutory decision making authorities.

Forest and land carbon management as well as atmospheric benefit sharing policies and agreements are within FLNRO's authority as provincial land manager. This policy is specific to forest and land carbon management and atmospheric benefit agreements.

Before undertaking any potential forest or land carbon offset project, Proponents are required to follow the policy guidance herein. Having successfully followed the procedures and requirements in this document, Proponents may be in the position to generate Emission Offsets from their respective project(s).

The Ministry of Environment is responsible for policy and decision making pursuant to provincial offset legislation related to the *Greenhouse Gas Industrial Reporting and Control Act* and regulations made under that legislation. Please note that for atmospheric benefits to be recognized under that legislation as Offset Units the project plan must be validated and reductions verified in accordance with that Act and regulations, and project plans must be in accordance with a protocol approved by the director under that Act. The Forest Carbon Offset Protocol (FCOP) referred to in this policy has not been approved by the director under *Greenhouse Gas Industrial Reporting and Control Act*.

SCOPE:

This policy is applicable to all Forest Carbon Emission Offset Projects on provincial Crown forest land. This policy does not address any additional requirements associated with Emission Offset Programs or purchase agreements entered into by Proponents and Third-party purchasers of Emission Offsets resulting from the implementation of a Forest Carbon Emission Offset Project.

TERMS:

“Atmospheric Benefits” means reductions in atmospheric greenhouse gases caused by reduction or avoidance of greenhouse gas (GHG) emissions or increases in removals of GHGs from the atmosphere.



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

“Activity-based Forest Carbon Emission Offset Project” means a project that involves actively improving the forest resource and involves direct investment (reforesting disturbed areas, fertilization, pest treatments etc.) on the land-base in order to increase sequestration and/or reduce emissions.

“Atmospheric Benefit Agreement” means an agreement between a Proponent or other person and the government regarding the allocation of Atmospheric Benefit Rights.

“Atmospheric Benefit Rights” means proprietary or contractual entitlement to rights associated with Atmospheric Benefits, including any entitlement of the holder to obtain Emission Offsets under an Emission Offset Program, but does not include any possessory rights associated with carbon sequestered in Terrestrial Reservoirs;

“Crown Land” means land owned by the government in fee simple;

“Emission Offset” means any tradable credit, offset (including “Offset Units”) or unit that represents an estimated Atmospheric Benefit from a GHG Reduction or Sequestration Project and is recognized by an Emission Offset Program and used to offset GHG emissions from other sources.

“Emission Offset Program” means a voluntary or regulatory program of government or a third party for the recognition of Emission Offsets and application of Emission Offsets against GHG emissions.

“Forest Carbon Emission Offset Project” means a GHG Reduction Project or a Sequestration Project that is located within the Crown forest land base and is designed to generate Emission Offsets.

“Greenhouse Gas” has the meaning ascribed to it in the *Greenhouse Gas Reduction Targets Act* and “GHG” has the same meaning.

“GHG Reduction Project” means a specific course of action or management that leads to a GHG emissions avoidance and measurable Atmospheric Benefits.

“Intentional Reversal” means a Reversal caused by activities undertaken or authorized by government, or undertaken pursuant to a disposition of an interest in land by the government.



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

“Non-Intentional Reversal” means a Reversal caused by factors not within the direct control of government, including trespass, or natural causes such as fire, wind, disease or drought.

“Offset Unit” has the meaning ascribed to in in the *Greenhouse Gas Industrial Reporting and Control Act*.

“Proponent” means the person who carries out or causes the carrying out of a GHG Reduction Project for the purpose of obtaining Emission Offsets.

“Reversal” in relation to a GHG Reduction Project, means the release of carbon into the atmosphere, where such carbon has previously been sequestered in Terrestrial Reservoirs, and such sequestration was the basis for an Emission Offset.

“Sequestration Project” means a GHG Reduction Project that yields Atmospheric Benefits by increasing levels of carbon sequestered in Terrestrial Reservoir above levels that would exist in the absence of the project.

“Terrestrial Reservoir” means a place where carbon is sequestered from the atmosphere in vegetation, including trees and aquatic vegetation, and soils, including foreshore (i.e. the land), but does not include underground geological formations.

BACKGROUND AND OBJECTIVES:

Forest carbon management refers to practices that are aimed at increasing the carbon sinks or carbon storage capacity of forest ecosystems and forest product carbon pools and/or reducing emissions associated with forest management activities.

A Forest Carbon Emission Offset Project is one of the options available to explicitly manage for the carbon resource at a local or project level scale. A Forest Carbon Emission Offset project needs to clearly demonstrate an incremental GHG benefit that would result in measurable Atmospheric Benefits.

Atmospheric Benefits resulting from the implementation of a Forest Carbon Emission Offset Project must be quantified by the *Protocol for the Creation of Forest Carbon Offsets in British Columbia (FCOP)* or another government approved protocol.

Atmospheric Benefits resulting from the implementation of a Forest Carbon Emission Offset Project do not have a commercial value; however, a process of



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

validation, verification and registration of these Atmospheric Benefits can result in the generation of Emission Offsets, which may have a commercial value.

Emission Offsets can have value to government for such uses as compensation to Proponents for Intentional Reversals.. As a result, the Province requires that all Atmospheric Benefits arising from a Forest Carbon Emission Offset Project on Crown Land be validated and verified for the purposes of recognition as Emission Offsets pursuant to the applicable Emission Offset Program.

The objective of this policy framework is to provide guidance to natural resource sector (NRS) government staff and Proponents regarding development of Forest Carbon Emission Offset Projects and the management of Atmospheric Benefits.

A. OWNERSHIP

Proponents of Forest Carbon Emission Offset Projects are typically required to demonstrate that they have Atmospheric Benefit Rights or ownership that entitles them to claim Emission Offsets resulting from the implementation of the project. This is specified under the terms of the Emission Offset Programs. This is generally achieved by these persons entering into commercial arrangements where other potential claimants to the offsets agree that the Proponent has Atmospheric Benefit Rights.

Except in relation to land where government recognizes aboriginal title, the government generally takes the position that, in the absence of any agreement or legislation to the contrary, it is the owner of Atmospheric Benefits Rights resulting from the implementation of a Forest Carbon Emission Offset Project. Therefore, Proponents of Forest Carbon Emission Offset Projects must enter into an Atmospheric Benefit Agreement with the government so as to evidence their entitlement to Atmospheric Benefit Rights. Before entering into an Atmospheric Benefit Agreement, the Proponent must clearly demonstrate to the Province how and to what extent the project results in an incremental reduction and/or avoidance of GHG's (i.e. the 'benefit' of the project).

Until such time as the project is defined and the quantum of Atmospheric Benefits arising from the proposed project can be demonstrated (i.e. via modelling), any potential Atmospheric Benefits are theoretical in nature and do not provide adequate information or assurances for entering into a legal agreement with the Province.



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

In order to define a project and demonstrate the Atmospheric Benefits, the Province requires that a project-specific Feasibility Assessment be completed and submitted to the Province prior to negotiating an Atmospheric Benefit. See the Feasibility Assessment template in Attachment A for guidance.

In order to foster Forest Carbon Emission Offset Projects, the Province may at its discretion and in accordance with the Province's existing policies and procedures:

- I. Use legally established instruments (e.g. a tenure or license), to authorize a Proponent to use Crown land for the purposes of undertaking a Forest Carbon Emission Offset Project.
- II. Depending on the legal instrument used to authorize a project and the legal agreement used to grant entitlement to Atmospheric Benefits, the Province may include terms in the agreement (or a separate agreement) which provides that the Proponent may claim entitlement to a proportion of Atmospheric Benefits that directly result from project implementation during the term referred to in the agreement.

B. DECISION MAKING

Project Authorization:

Managing for carbon and timber should be synergistic, as a result, government has an interest in authorizing the development of Activity-based Forest Carbon Emission Offset Projects that:

- enhance future timber supply,
- create near-term silviculture jobs, and
- restore damaged or underproductive Crown forest lands and resources.

In order for a Proponent to conduct a Forest Carbon Emission Offset Project, they must have:

- The authority to access Crown land (i.e. a tenure) for the purpose of developing a Forest Carbon Emission Offset Project, and
- Entitlement to the Atmospheric Benefits.

For a proponent to conduct any large-scale Improved Forest Management or Conservation-based Forest Carbon Emission Offset Projects, in addition to the above two points, the proponent must have:

- The ability to enter into government to government land use decision making on Crown land,



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

The Competitiveness and Innovation Branch, Ministry of Forests, Lands and Natural Resource Operations (FLNRO) is the lead FLNRO agency responsible for receiving and reviewing Forest Carbon Emission Offset Project proposals.

Competitiveness and Innovation Branch is responsible for co-ordinating the issuance of project tenure requirements and/or amendments to forest management plans to facilitate project development.

Project tenure requirements and amendments to forest management plans will be approved by regionally minister designated statutory decision makers.

For proposed large-scale Improved Forest Management or Conservation-based Forest Carbon Emission Offset Projects that:

- span multiple tenures, and/or more than one Timber Supply Area (TSA) or Tree Farm Licence (TFL), and
- may result in a reduced harvest level, and/or
- may constrain land use and natural resource management opportunities,

These will be assessed in accordance with existing Strategic Land Use Planning processes.

Appendix 1 “FLNRO Forest Carbon Emission Offset Project Development Guidance” provides additional guidance to project Proponents and Natural Resource Sector staff regarding the process for developing a Forest Carbon Emission Offset Project.

Atmospheric Benefit Agreement:

Joint approval between the Ministry of Aboriginal Relations & Reconciliation (MARR) and FLNRO is required for any large-scale Improved Forest Management or Conservation based projects proposed by First Nations¹. An Atmospheric Benefit Agreement based on this type of project requires the signatures of both; the Minister responsible for the *Treaty Commission Act* and the Forests Minister.

¹ Where the Atmospheric Benefit Agreement is entered into pursuant to an agreement between the government and the First Nation that deals with reconciliation of aboriginal rights and title with the Canadian legal system.



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

For all other projects, Competitiveness and Innovation Branch, FLNRO is the lead and will review the project and determine any Atmospheric Benefit sharing portions. A final Atmospheric Benefit Agreement requires the signature of the Forests Minister or delegate.

C. MANAGING PERMANENCE

Reversals may reduce or eliminate any Atmospheric Benefits resulting from the implementation of a Forest Carbon Emission Offset Project. As a result, Proponents of these projects may be required under Emission Offset Programs or through arrangements made with purchasers of Emission Offsets to replace Emission Offsets that were subsequently reversed. FLNRO is not responsible for addressing permanence relating to Non-intentional Reversals and is not liable to compensate Proponents for reductions in Atmospheric Benefits resulting from a Non-Intentional Reversal. Any reversals caused by the proponent, either through a change in management regime or otherwise are the sole responsibility of the proponent and the proponent is accountable via validation and verification processes. Furthermore, in exchange for authorizing a Forest Carbon Emission Offset Project on Crown land, the government retains the right to make decisions regarding future land use that may affect the quantum of Atmospheric Benefits and subsequent Emission Offsets resulting from the implementation of the Forest Carbon Emission Offset Project.

The government may compensate Proponents for these Intentional Reversals as outlined in Section D. IV. a).

D. BENEFITS SHARING:

Forest Carbon Emission Offset Projects can have different impacts to Crown resources, values and revenue. As a result, the Province will balance these impacts by retaining a portion of the Atmospheric Benefits generated by the project. The Province will also assess any potential liability arising from Intentional Reversals and retain a commensurate portion of Atmospheric Benefits to mitigate this risk.

- I. For projects that result in an increased future timber supply, restore Crown forest lands and create direct employment, the Crown may waive all or a portion of its right to the Atmospheric Benefits created by the project.
- II. For projects that result in a reduction in harvesting and/or constrain industrial forest activity and pursuant to approval of the project, the Crown retains the right to negotiate a share of Atmospheric Benefits created by the project to balance these foregone economic opportunities.



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

- III. For all Forest Carbon Emission Offset Projects, the Crown retains the right to withhold a portion of the Atmospheric Benefits and resulting Emission Offsets as a form of Crown rent for the use of Crown land and resources.
- IV. For projects where a portion of the Atmospheric Benefits are withheld by the Crown, the resulting Emission Offsets will be held in a Ministry Carbon Account (See F.) and used as follows:

a) Compensation to project Proponents for Intentional Reversals:

Due in part to the long-term (100+ years) nature of projects, there may be circumstances where a future Crown land use decision could impact a project area's net carbon and result in a net loss of Atmospheric Benefits (e.g. construction of a new highway). If this occurs, the Crown will compensate Proponents as follows (See G.):

- i) The Crown's proportion of Atmospheric Benefits or Emission Offsets will be used as compensation if the lost Atmospheric Benefits have been previously converted to Emission Offsets.
- ii) Existing or new Atmospheric Benefits may be used as compensation if the lost Atmospheric Benefits have not been previously converted to Emission Offsets.

b) Future First Nations Commitments:

For large-scale Improved Forest Management or Conservation based Forest Carbon Emission Offset Projects developed by First Nations that span multiple First Nations traditional territories, the Province will assess the extent of overlap and retain a portion of the total Atmospheric Benefits generated from the project to allow for such things as mitigating future land and resource decision-making impacts.

The retained portion of Atmospheric Benefits will be held and used to negotiate future Atmospheric Benefit Agreements with First Nations who have asserted Traditional Territories within the project area, but have not yet entered into an agreement with the Crown regarding the reconciliation of aboriginal rights and title (See Appendix 2: Policy for the Allocation of Atmospheric Benefits Where Multiple First Nations have Traditional Territories within a Forest Carbon Emission Offset Project Area).



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

c) Cost recovery and meeting government's carbon neutral targets:

Atmospheric Benefits do not have marketable value nor can they be directly applied against government's carbon neutral targets. The Province will therefore require that its share of Atmospheric Benefits be converted into Emission Offsets.

The Ministry retains the right to retire Emission Offsets for the purpose of meeting corporate Climate Change commitments.

d) Allocate a greater share of the Crown's portion of Emission Offsets to project Proponents to enable jointly agreed programming area needs:

In the event that risks of reversals and cost recovery needs have been met and there are remaining Emission Offsets held in the Reserve Account, Ministry Executives could approve the allocation of a portion of these to project proponents to improve the business case to develop new projects and to meet mutually agreed to objectives within natural resource management plans.

E. FIRST NATION RECONCILIATION AGREEMENTS

In the case of projects resulting in a reduced harvest and proposed by First Nations, these may occur on Crown land only when the Crown and the First Nation have signed an agreement such as a Reconciliation Agreement. Such arrangements may include an assignment of ownership of Atmospheric Benefits under section 46 of the *Financial Administration Act* or future legislation.

F. MINISTRY CARBON ACCOUNT

Assigning a commercial value to the Atmospheric Benefits retained by the Crown could not be possible without having them converted into Emission Offsets. Emission Offsets are serialized and registered with an independent Offset Registry.

The Province will establish a Ministry Carbon Account in which the Province's Emission Offsets generated through the implementation of a Forest Carbon Offset Project will be held.

G. RESERVE ACCOUNT

A portion of the Emission Offsets in the Ministry Carbon Account will be held as "Reserve Emission Offsets".



Forest Carbon Emission Offset Project Development and Atmospheric Benefit Sharing Policy

Where Crown land use decisions result in an Intentional Reversal, a proportional amount of Reserve Emission Offsets may be retired in order to compensate for this and/or to maintain the environmental integrity of issued Emission Offsets (See D. IV a) above).

The contribution of Emission Offsets to the Reserve Account should represent at least 10 per cent of the total Emission Offsets issued for Improved Forest Management or Conservation-based Forest Carbon Emission Offset Projects on an annual basis. This will allow for some flexibility in future management decisions with respect to other potential natural resource based projects and the need to maintain some land-use flexibility over the medium and long term.

Prior to negotiating an Atmospheric Benefit Agreement with a project Proponent, the Crown will assess the likelihood and impact of an Intentional Reversal occurring within the project area. A proportionate amount of Atmospheric Benefits will be retained by the Crown in order to balance these risks. For projects, where the risk of an Intentional Reversal occurring is high, the Crown will allocate a greater proportion of Emission Offsets to the Reserve Account to manage this risk.

In the event that a compensation for an Intentional Reversal reduces the size of the Reserve Account to less than 10 per cent of the total Emission Offsets held in the Ministry Carbon Account, Natural Resource Ministry Executives will be required to approve the use of Emission Offsets from the Ministry Carbon Account to complement (and replenish) the Reserve Account.

H. ATMOSPHERIC BENEFITS

Once a Feasibility Assessment has been completed, and all project information requirements have been met, the Ministry will need to review and approve the project before entering into an Atmospheric Benefit Agreement with the project Proponent.

In order to satisfy requirements of D. IV a-d., the government requires that for all projects, where the Crown is retaining Atmospheric Benefits, the Crown's portion of the Atmospheric Benefits must be converted to Emission Offsets.