

CANADA'S GREENHOUSE GAS OFFSET CREDIT SYSTEM CREATES GREEN INCENTIVES FOR REGULATED FACILITIES (UPDATE)

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This is an update to our [previous bulletin dated March 7, 2021](#) regarding the federal government's proposed *Greenhouse Gas Offset Credit System Regulations* (the "**Regulations**").

On June 8, 2022, Canada published the final Regulations^[1] under sections 192 and 195 of the *Greenhouse Gas Pollution Pricing Act* ("**GGPPA**")^[2] and section 5 of the *Environmental Violations Administrative Monetary Penalties Act*.^[3] These Regulations are now in force.

The Regulations establish an offset credit system for projects started after January 1, 2017 that reduce greenhouse gases ("**GHGs**") either by preventing GHGs from being emitted or by removing GHGs from the atmosphere and to which a federal protocol applies.

Overview of the Offset Credit System

Eligible projects can generate one tradeable offset credit for each tonne of GHG emissions reduced or removed from the atmosphere. Once verified and registered, credits can then be sold to other entities who wish to reduce the carbon price they have to pay and are registered with a recognized federal, provincial or territorial program.

This system applies to activities not currently covered by carbon pollution pricing programs that exceed current emissions target requirements. Although a federal program, the offset credit system is intended to work in tandem with existing provincial and territorial carbon pricing systems with an ultimate goal of developing a consistent approach to the transfer and trade of offset credits across the country.

Eligibility Requirements

The Regulations apply to projects that:

1. Fall within the Compendium of Federal Offset Protocols^[4] (subject to some exceptions for provincial protocols);
2. Aim to generate GHG reductions; and

3. Generate GHG reductions that are real, additional, quantified, verified, unique and permanent.

Eligible GHG reductions are reductions that would not have been generated in the absence of the project. They also must not be incentivized by legal requirements already in place, nor can they be subject to any policy or other risk management instrument placing a price on carbon pollution.

To be issued offset credits, the proponent of an eligible project must:

1. Have registered the project in accordance with the conditions set out in sections 8 and 9 of the Regulations, which include the following requirements:
 - a. the proponent is an individual who resides in Canada or an entity with a place of business in Canada;
 - b. the proponent has exclusive entitlement to claim the credits issued for the reductions generated by the project;
 - c. the proponent has the necessary authorizations to carry out the project; and
 - d. the project is not registered in any other offset credit system and no credits will be attributed under another GHG reduction mechanism (whether federal or provincial or territorial).
2. Hold an active GHG Offset Credit System Account in the tracking system;
3. Prepare project reports in conformance with reporting requirements under the Regulation;
4. Have the reports verified by an accredited verification body, and submit both the project and verification reports to the Minister of Environment and Climate Change.

Currently, the Compendium of Federal Offset Protocols has only established the protocol for and availability of offset credits for municipalities with projects that operate to capture methane from their landfills. However, there are plans to extend offset credit project availability to other sectors such as forestry, agriculture, livestock feed management and refrigeration systems. As of the date of this bulletin, there has not been an announcement on when offset credits will be available to these sectors.

To align with the condition that credits are issued to GHG reductions that are not required under existing laws or carbon pollution pricing systems, the Regulations will not apply to projects which have started before January 1, 2017. This date aligns with the federal government's announcement of their approach to carbon pollution pricing. As such, projects implemented prior to this date could not have been incentivized by the federal offset system.

Crediting Period

The Regulations specify the length of the periods during which offset projects are eligible to generate credits (the “**Crediting Period**”).

Crediting Periods, which are outlined in section 5 of the Regulations, differ depending on the project type. For instance, forestry projects have a 30-year Crediting Period while sequestration projects have a 20-year Crediting Period. All other projects are subject to a 10-year Crediting Period.

Impacts from GHG Offset System and Next Steps

The Regulations create a market-based mechanism to incentivize businesses to invest in innovative pollution-reducing technologies and projects. This will help heavy GHG emitters meet their meet their compliance obligations or emissions reduction goals provided in the federal or provincial carbon pricing programs under which they operate. Reduction of GHG emissions will benefit public health and the environment as well as help combat climate change.

Whether or not a facility can become a proponent of an eligible carbon offset program will depend on the industry in which it operates and the types of programs the Minister will approve. However, there remains incentives for a facility to reduce its GHG emissions to below its limit under the carbon pricing system that regulates its operations, including not being required to pay a carbon price for GHG emissions from the facility and earning credits for the difference in its emission and applicable limit.

In addition, operating or investing in an offset credit program or reducing a facility’s GHG emissions may elevate a facility’s ESG value. This can directly impact a company’s public reputation – particularly as a green company – as well as its attractiveness as an investment opportunity and ultimately its bottom line.

Look for more updates from us on the feedback the Regulations and the Compendium of Federal Offset Protocols and how they may impact your business. Please do not hesitate to contact us if your business is looking for assistance in navigating the GHG Offset System or climate change legislation more generally.

[1][ps2id id='1' target=''] [Canada Gazette, Part II, Volume 156, Number 12: Canadian Greenhouse Gas Offset Credit System Regulations: SOR/2022-111](#)

[2][ps2id id='2' target=''] SC 2018, c 12

[3][ps2id id='3' target=''] S.C. 2009, c. 14.

[4][ps2id id='4' target=''] [Compendium of Federal Offset Protocols](#)

by [Talia Gordner](#), [Julia Loney](#), [Ralph Cuervo-Lorens](#), [Donia Hashem](#)

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against



making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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