

Torys on Climate Change

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Canada Releases Draft Offset System Guidelines

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On June 10, 2009, the federal government released for comment long-awaited draft guidance, which was originally promised for last fall, on a proposed Canadian offset system for greenhouse gases (GHGs). Under the proposed offset system, Environment Canada plans to issue “offset credits” to projects in Canada that reduce or remove GHG emissions when not required by law to do so. Project proponents could then sell these credits.

Potential purchasers would include entities capped under a future federal cap-and-trade system, which could use the credits to offset their own emissions; parties wishing to resell the credits at a later date; and parties wishing to voluntarily retire the credits to create an environmental benefit. The main mechanics of the offset system are set out in the draft “Program Rules and Guidance for Project Proponents” (Proponent Guidance) and the draft “Program Rules for Verification and Guidance for Verification Bodies” (Verification Guidance).

The Proponent Guidance sets out a procedure for proponents wishing to develop and successfully receive offset credits in respect of an offset project. The procedure entails four main steps: (i) registering the offset project; (ii) implementing the project; (iii) verifying that the GHG emissions reductions took place, as described in the Verification Guidance; and (iv) certifying the project and issuing the offset credits.

For a project to be eligible to be registered and receive offset credits, Environment Canada must have approved a methodology (called a “Quantification Protocol”) for quantifying the GHG emissions reductions or removals associated with the project type. Environment Canada published draft guidance for protocol developers in August 2008 (see [Torys’ Bulletin](#)) and expects to issue a final version in fall 2009. Beginning in November 2009, Environment Canada will start approving proposed Quantification Protocols, focusing first on those based on protocols that other jurisdictions already use for projects involving afforestation, landfill gas capture and combustion, reduced- or no-tillage agriculture, wind-powered electricity generation, forest management, wastewater management and anaerobic biodigestors. According to Environment Canada, there will be no minimum offset project size, and smaller projects may be bundled and aggregated.

Issues specific to certain project types would be dealt with in the Quantification Protocols. For example, in response to the risk that biologically sequestered carbon may be released into the atmosphere earlier than anticipated, protocols for biological sink projects (which involve the use of forests or agricultural lands as “sinks” to remove GHGs) would set out discount factors to be applied to any credits claimed for these projects.

In addition, the Proponent Guidance proposes some substantive requirements for offset project eligibility:

1. Projects would have to involve the reduction or removal of GHGs in Canada, not in any other country.

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2. The reductions would have to be “quantifiable” under an approved Quantification Protocol.
3. The reductions would have to be “real,” meaning that the project would have to result in a net reduction of GHGs, after accounting for all other GHG sources and sinks.
4. The reductions would have to be “incremental.” For these purposes, reductions would be considered incremental if (i) the relevant project started on or after January 1, 2006; (ii) the reductions occurred on or after January 1, 2011; (iii) the reductions represented more than business as usual for the project type; (iv) the reductions were in addition to those required by law; and (v) the reductions were not wholly a result of certain financial incentives, such as government funding or tax allowances for the project type (although projects that received such incentives could still be eligible for credits if the incentive program set an expected GHG reduction and the project exceeded that goal).
5. The reductions must be “verifiable,” meaning that the proponent would have to ensure that an accredited third party could provide a reasonable assurance that the reductions were monitored or estimated and quantified and reported in accordance with the applicable Quantification Protocol and the Verification Guidance.
6. The reductions would have to be “unique” – meaning that they could only be used once to create offset credits.

To register eligible projects with the offset system, proponents would be required to submit a Project Application Form to Environment Canada, describing the project and how it would reduce GHG emissions. Environment Canada would then determine whether the project would be likely to receive offset credits. Project Application Forms would be posted online for public comment before registration.

In the next stage, proponents would be required to implement the project in accordance with the applicable Quantification Protocol. In particular, they would have to develop and implement data-management systems and document GHG reductions in accordance with the Quantification Protocol.

After the offset project is completed, the proponent would be required to verify that the project's emissions reductions were actually achieved in each chosen reporting period. To do so, proponents would first be required to submit (i) a “Greenhouse Gas Assertion,” setting out the claimed reductions, and (ii) a “Project Monitoring Report,” summarizing how those reductions were monitored. According to the Verification Guidance, an accredited third-party verification body would then have to provide a “Verification Statement,” which would include a reasonable assurance that the reductions claimed in the GHG Assertion actually occurred. Specific requirements are set out for the verification procedure.

In the final stage, Environment Canada would review the GHG Assertion, the Project Monitoring Report and the Verification Statement. If the project met all necessary requirements, Environment Canada would then issue the proponent a “Certification Report,” and the appropriate number of offset credits would be set forth in a tracking system, for which details have yet to be provided. Project proponents would be required to have an account on the tracking system to receive offset credits, which would allow Environment Canada to deposit credits directly into a proponent's account.

Environment Canada is accepting comments on the Proponent Guidance and the Verification Guidance until August 12, 2009.

For further information, please see www.ec.gc.ca/creditscompensatoires-offsets/default.asp?lang=En&n=109DDFBA-1. 