

Ontario Sets the Stage for Greenhouse Gas Offset Credits

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Ontario continues to implement and refine its cap and trade program. Recently, Ontario finalized an Offset Credits Regulation (O. Reg. 529/17),¹ began publishing Offset Initiative Protocols, and signed a tripartite agreement with California and Québec to create a joint carbon market.

The Regulation is intended to encourage development of technologies for greenhouse gas (GHG) reduction and removal activities. Offset sponsors and other interested parties are encouraged to consult the Regulation and Protocols to understand the requirements for undertaking offset initiatives.

Offset Credits Regulation

Ontario's Offset Credits Regulation, under the *Climate Change Mitigation and Low-Carbon Economy Act, 2016*, is designed to generate tradable GHG credits. The sale of GHG credits will provide capped emitters greater flexibility in meeting up to 8 percent of their compliance obligations. The Regulation is intended to encourage development of technologies for GHG reduction and removal activities not covered by the current Cap and Trade Program Regulation (O. Reg. 144/16).²

The Regulation outlines the process, criteria and administrative requirements for creating an offset credit. Provisions cover:

- ◆ Eligibility and application for offset credits
- ◆ The creation and transfer of credits
- ◆ Reversals and cancellation of credits, and
- ◆ Record keeping and reporting obligations.³

The Regulation follows an earlier regulatory proposal posted in November 2016. The previous proposal attracted extensive interest and more than 500 comments.⁴ Based on feedback received

¹ Ontario Offset Credits Regulation (O. Reg. 539/17), online at: <https://www.ontario.ca/laws/regulation/r17539> [Offset Credit Regulation].

² Ontario Cap and Trade Program: Offsets Credits Regulatory Proposal, EBR Registry #012-9078, Ministry of the Environment and Climate Change; loaded to the Registry Nov. 15, 2016, online at: <http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTMwOTcy&statusId=MTk4NDg2&language=en> [EBR 012-9078]; Compliance Offset Credits Regulatory Proposal, Ministry of the Environment and Climate Change, pg. 3, online at: http://www.downloads.ene.gov.on.ca/envision/env_reg/er/documents/2016/012-9078.pdf.

³ Offset Credits Regulation.

on the earlier regulatory proposal, the MOECC changed the timing of applications for sequestration initiatives (which affects the frequency of reporting and verification activities), and removed the Ontario residency requirements for “sponsors” (expanding it to Canadian residency, consistent with the “market participant” requirements in O. Reg. 144/16).⁵

Initiatives eligible to earn offset credits under the Regulation include carbon capture through tree planting, methane control through manure management, and the replacement of refrigerants in commercial and industrial cooling systems with refrigerants that generate less GHG emissions.⁶ Eligible initiatives must:

- ◆ Be located in Canada (excluding Québec)
- ◆ Start on or after January 1, 2007
- ◆ Avoid, reduce or remove at least one tonne of GHG emissions for any reporting period, and
- ◆ Not claim reductions from activities directly subject to O. Reg. 144/16 or that have already been credited under another offset program.⁷

Offset Initiative Protocols

Offset Initiative Protocols set out the rules for each initiative type or offset class. The Protocols also establish specific eligibility criteria, baseline scenario and initiative calculation methods, and monitoring, data management and reporting requirements.⁸

The first Protocol to be incorporated into the Regulation is the Landfill Initiative Protocol, which governs the capture and destruction of methane gas from landfill facilities.⁹

Ontario has awarded a contract to the Climate Action Reserve, which runs the Offset Project Registry under California’s cap and trade program.¹⁰ The Climate Action Reserve will adapt existing offset protocols for use in Ontario and Québec.¹¹

⁴ EBR 012-9078; Compliance Offset Credits Regulatory Proposal, Ministry of the Environment and Climate Change, online at http://www.downloads.ene.gov.on.ca/envision/env_reg/er/documents/2016/012-9078.pdf.

⁵ EBR 013-1460.

⁶ “Compliance carbon offset credits”, Ministry of the Environment and Climate Change Website, online at: <https://www.ontario.ca/page/cap-and-trade-offset-credits-and-protocols>.

⁷ Offset Credits Regulation, ss 5(1) and 16(2)(c).

⁸ Offset Initiative Protocols for Ontario’s Cap and Trade Program dated December 31, 2017 at pg. 1, online at:

https://files.ontario.ca/offset_initiative_protocols_for_ontarios_cap_and_trade_program_31dec2017.pdf [Offset Initiative Protocols].

⁹ Offset Initiative Protocols; Landfill Gas (LFG) Offset Protocol, EBR Registry #013-0480, Ministry of the Environment and Climate Change; proposal loaded to Registry May 19, 2017; decision posted to Registry Oct. 4, 2017, online at: <https://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTMyNTE0&statusId=MjAzMDcz&language=en>.

¹⁰ California Compliance Offset Program, online at: <http://www.climateactionreserve.org/how/california-compliance-projects/>.

The Climate Action Reserve is adapting GHG offset protocols for:

- ◆ N₂O reductions from fertilizer management
- ◆ Emission reductions from livestock
- ◆ Organic waste digestion and management
- ◆ Forestry (avoided conversion and improved forest management) and urban forestry
- ◆ Reforestation and afforestation
- ◆ Grasslands
- ◆ Conservation cropping, and
- ◆ Refrigeration systems.¹²

Ontario has prioritized the development of two other protocols addressing ozone depleting substances and mine methane. These priority protocols are expected to be in place by the early 2018, with the remainder to be completed later in 2018 prior to the first cap and trade compliance deadline (November 1, 2021).¹³ As future protocols are adapted, they will be posted for public comment and, upon approval, incorporated into the regulation by reference.¹⁴

¹¹ Adapting Offset Protocols for Ontario, Québec and Other Jurisdictions, Climate Action Reserve, online at: <http://www.climateactionreserve.org/adapting-offset-protocols-for-ontario-quebec-and-other-jurisdictions-2/>.

¹² Climate Action Reserve, Adaptive Offset Protocols for Ontario, Québec and Other Jurisdictions, online at: <http://www.climateactionreserve.org/adapting-offset-protocols-for-ontario-quebec-and-other-jurisdictions-2/>.

¹³ “Ontario’s carbon offset programs”, Ministry of the Environment and Climate Change, online at: <https://www.ontario.ca/page/ontarios-carbon-offsets-programs>.

¹⁴ “Offset Protocols”, Ministry of the Environment and Climate Change Website, online at: <https://www.ontario.ca/page/cap-and-trade-offset-credits-and-protocols>.

Tripartite Agreement

On September 22, 2017, Ontario signed the tri-partite *Agreement on the Harmonization and Integration of Cap-and-Trade Programs for Reducing Greenhouse Gas Emissions*, formally adding Ontario to the Western Climate Initiative (WCI), together with Québec and California, effective January 1, 2018.¹⁵ In addition to harmonizing regulatory and reporting requirements among participants, the Agreement allows all three governments to hold joint auctions of GHG emission allowances, creating the largest collective carbon market outside the European Union.

The Agreement requires participants to collaborate, integrate their cap and trade programs, and to provide for “the equivalence and interchangeability of compliance instruments issued.”¹⁶ To this end, any changes to the offset protocols in each of the programs must be discussed between the participants, and all offset emission reductions, avoidances and removals must be “real, additional, quantifiable, permanent, verifiable and enforceable.”¹⁷

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¹⁵ “Québec, Ontario and California Join Forces to Fight Climate Change”, Press Release, Office of the Premier, Sept. 22, 2017, online at: <https://news.ontario.ca/opo/en/2017/09/quebec-ontario-and-california-join-forces-to-fight-climate-change.html>; Agreement on the Harmonization and Integration of Cap-and-Trade Programs for Reducing Greenhouse Gas Emissions, Backgrounder, Office of the Premier, Sept. 22, 2017, online at: <https://news.ontario.ca/opo/en/2017/09/agreement-on-the-harmonization-and-integration-of-cap-and-trade-programs-for-reducing-greenhouse-gas.html> [Agreement].

¹⁶ Agreement, Article 1(b), Objective.

¹⁷ Agreement, Article 5, Offset Protocols.