Turning the Corner - Environment Canada Releases Draft Guide for Protocol Developers

Background

In April 2007, the Government of Canada released Turning the Corner: An Action Plan to Reduce Greenhouse Gases and Air Pollution ("Turning the Corner"). Turning the Corner sets out several compliance mechanisms in connection with upcoming federal greenhouse gas ("GHG") regulations, including Canada’s Offset System for Greenhouse Gases (the “Offset System”). The Offset System will provide tradable credits in recognition of “real”, “incremental”, “quantified”, “verified” and “unique” GHG reductions from activities that will not be covered by federal regulations.

In March 2008, the Government of Canada published among other documents, Canada’s Offset System for Greenhouse Gases: Overview (the “Offset System Overview”). The Offset System Overview sets out the objectives of the Offset System, and addresses the eligibility criteria and processes for creating offset credits in Canada.


On August 9, 2008, the Government of Canada released a draft Protocol Developers Guide for public comment for a 60-day period. The Project Proponents Guide and the Verification Guide were due for publication this Summer, but have not yet been released as of the date of this Bulletin. The Protocol Developers Guide provides guidance to Protocol Developers (as defined below) on how to develop a protocol under the Offset System and describes the various players involved in the quantification protocol development process. The Guide does not set out protocols for specific project types.

This Bulletin provides a summary of key features of the draft Protocol Developers Guide.

The Scope and Principles of the Draft Protocol Developers Guide

The Protocol Developers Guide provides detailed instructions on the requirements and processes to complete an Offset System Quantification Protocol ("OSQP"). An OSQP
is a project type specific quantification approach that has been approved by Environment Canada. An offset project cannot be considered under the Offset System until a OSQP for the relevant project type has been approved by Environment Canada.

Under the Protocol Developers Guide, a protocol developer (the “Protocol Developer”) may be an individual, institution, organization, business or government. In most cases, it is anticipated that the Protocol Developer will be either a project proponent, a group of project proponents, or a contractor to one or more project proponents.

The OSQP development process will be conducted in accordance with the following ISO-14064 Part 2 quantification principles: (i) completeness; (ii) consistency; (iii) accuracy; (iv) transparency; (v) relevance; and (vi) conservativeness.

OSQP Process Overview

Protocol Developers will have an opportunity to develop a OSQP under either a “fast track” process (the “Fast Track”) or a “standard track” process (the “Standard Track”).

(a) Fast Track - Overview

The Fast Track is a process by which Environment Canada will consider applications from Protocol Developers to adapt quantification protocols that are already approved for use by another offsets program that relies on criteria similar to the Offset System. These protocols need to meet certain eligibility requirements to be considered for the Fast Track process. Potentially eligible protocols are listed in Annex J to the Protocol Developers Guide. The list currently includes 40 external protocols. The Fast Track projects include the following projects:

- Agriculture – Livestock (Feeding) (based on Alberta’s Specified Gas Emitters Regulation and protocols);
- Agriculture – Livestock (Manure) (based on Alberta, California, CDM protocols);
- Agriculture – Soil (based on Alberta protocols);
- Energy Efficiency – Commercial and Residential Buildings and Waste Heat Recovery Projects (based on Alberta and CDM protocols);
- Forestry – Afforestation and Forest Management (based on Alberta and California protocols);
- Fossil Fuel – Based Energy (Fuel Switching) (based on CDM protocols);
- Geological Sequestration – Acid Gas Injection and Enhanced Oil Recovery (based on Alberta protocols);
- Methane Management – Land Fill Gas, Coal Bed Methane, Coal Mine Methane, Abandoned Mine Methane Capture (based on Alberta, California and CDM protocols);
- Renewable Energy – Biomass, Run of River, Solar Power, Wind Power (based on Alberta and CDM protocols);
- Transportation – Resurfacing of Roads, Freight Model Shifting (based on Alberta protocols);
- Waste Management – Oil Wells and Non-incinerator Thermal Waste Management (based on Alberta and CDM protocols).

The protocol is eligible if:

(a) the protocol is a complete document that has been approved for use by the Clean Development Mechanism, Alberta’s Specified Gas Emitters Regulation, the California Climate Action Registry, the Greenhouse Gas Abatement Scheme in New South Wales, France’s Offset System, or the Regional Greenhouse Gas Initiative;

(b) where there is more than one protocol for the same type of project, the protocol that most closely meets the requirements of the ISO 14064-2 standard and that can be most easily adapted for use in the Offset System;

(c) the protocol is for projects that could occur in Canada; and

(d) the protocol is for projects/activities that will not be regulated under the industrial GHG regulations.

The Fast Track process will be implemented by Environment Canada during the first six months of operation of the Offset System (i.e., from the date the Project Proponents Guide is published in its final version in Canada Gazette).
During the six-month period, priority will be given to protocols that are included in the Fast Track eligibility list. Protocol Developers will still be able to submit base protocol plans (“Base Protocol Plan”) that are not based on one of the protocols eligible for the Fast Track process. However, these protocols will be given a lower priority for assessment during the initial six-month period.

(b) Standard Track - Overview

After the six-month Fast Track period has passed, the order of priority in which Environment Canada will evaluate project types for development of OSQPs will be set out in the protocol submission workplan (the “Workplan”). Environment Canada will develop and update the Workplan and post it on the Offset System website.

Environment Canada will use the following criteria when establishing the order of priority under the Workplan: (i) stakeholder interest; (ii) current state of protocol development; (iii) project types generating the most projects or most reductions in other project-based systems; (iv) broad representation of projects across different sectors; and (v) challenges and outstanding issues associated with a project type.

The Workplan will set out the submission deadline for Base Protocol Plans (by project type) under the Standard Track. Environment Canada will prioritize the review of Base Protocol Plans for project types with a deadline posted in the Workplan. If a Base Protocol Plan is submitted after the deadline set out in the Workplan, the Protocol Developer will not be permitted to submit the base protocol (the “Base Protocol”) to Environment Canada for potential inclusion in an OSQP.

OSQP Development - Main Stages

(1) Stage 1

All Protocol Developers are first required to prepare and submit a Base Protocol Plan to Environment Canada. The Base Protocol Plan provides a brief description of the Base Protocol to be developed. The requirement for a Base Protocol Plan is intended to allow for early feedback from Environment Canada on elements of the Base Protocol to be developed before significant resources are expended.

Under the Fast Track, Base Protocol Plans can be submitted throughout the 60-day public consultation period on the Draft Protocol Developers Guide. The deadline for receiving all Base Protocol Plans under the Fast Track process is set for 4 weeks following the publication of the final version of the Protocol Developers Guide in the Canada Gazette (anticipated in November 2008). Under the Standard Track, the Base Protocol Plan must be submitted by the deadline indicated in the Workplan.

Under the Standard Track, the Environment Canada will review the Base Protocol Plan and provide comments to the Protocol Developer in the form of a base protocol plan report (the “Base Protocol Plan Report”). Reasonable efforts will be made to ensure that the Base Protocol Plan Report will be sent to the Protocol Developer within two weeks of the submission deadline. The Base Protocol Plan Report will set out a deadline for submission of the Base Protocol. Under the Fast Track, providing the Base Protocol Plan is at Environment Canada’s discretion.

The deadline for submission of the Base Protocol under the Fast Track will be set at seven weeks from the publication of the final version of the Protocol Developers Guide. The deadline for the submission of the Base Protocol under the Standard Track (approximately eight weeks after the deadline for the submission of the Base Protocol Plan for the project type) will be provided in the Base Protocol Plan Report.

(2) Stage 2

Fast Track Protocol Developers

At this stage, the Fast Track Protocol Developer prepares an application that should include (i) the external protocol to be adapted; (ii) a description of the technical review the external protocol has already received; (iii) any supplementary information needed by Environment Canada to be consistent with the Offset System eligibility criteria. A key element of the submission will be for the Protocol Developer to indicate the degree of external technical review that the external protocol has already received, in order to facilitate its assessment by Environment Canada. The application must be submitted within seven weeks of the publication of the final version of the Project Developers Guide.
Environment Canada will conduct an internal technical assessment that relies mainly on the technical reviews that have already been conducted of the external protocols. In general, assessments involving external experts will not be needed under the Fast Track unless the supplementary information submitted raises new issues or there are major adjustments needed to adapt the protocol to the Canadian context. After the review is complete, Environment Canada produces a brief record of decision (the “Record of Decision”) that explains any revisions that must be made to the proposed protocols.

**Stage 3**

At this final stage, the Protocol Developer submits the proposed draft OSQP to Environment Canada. In most cases, the external protocol and supplementary Base Protocol form will constitute a draft OSQP under the Fast Track. The Standard Track Protocol Developers must ensure that OSQP incorporates any necessary revisions to reviewed Base Protocols that are specified by Environment Canada in its Record of Decision.

Environment Canada reviews the draft OSQP, and then posts the draft OSQP for a 30-day public comment period on the Offset System website.

After the public comment period, Environment Canada will assess comments on the draft OSQP and seek input from technical experts to evaluate these comments, if necessary. Environment Canada then approves the OSQP and publishes it for use by any interested stakeholders.

**Timeline**

Environment Canada anticipates that some OSQPs could be approved under the Fast Track in as little as three months after the deadline for submission of Base Protocol Plans.

The Government expects that the entire Standard Track process (from the submission of a Base Protocol Plan to the release of an approved OSQP) could require between five and eight months.

**Turning the Corner - More to Come**

We will keep you updated on the remaining two guides of the Offset System and GHG federal regulations that are due for release this Fall.

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The foregoing provides only an overview. Readers are cautioned against making any decisions based on this material alone. Rather, a qualified lawyer should be consulted.

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