



CAP AND TRADE OFFSETS REGULATION CONSULTATION PAPER

SUMMARY OF PUBLIC COMMENTS

Climate Action Secretariat
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Cap and Trade Offsets Regulation Consultation Paper – Summary of Public Comments

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Cap & Trade Offsets Regulation Consultation

Summary of Public Comments

1. Introduction

The Climate Action Secretariat (“CAS”) is in the process of developing a proposed Offsets Regulation and a proposed Emissions Trading Regulation under the *Greenhouse Gas Reduction (Cap and Trade) Act*. The proposed Offsets Regulation would establish a single standard for developing compliance grade offsets issued by the Province, setting out criteria to ensure that offset emission reductions are real, verifiable, additional and permanent. It would also include new steps for offset registration, validation, monitoring, quantification, reporting, verification, certification and issuance of offsets. Consultation papers were prepared for public review and comment outlining the major components and operation of the proposed Emissions trading and Offsets regulations.

1.1 Background to the consultation process

The consultation paper was posted for public review and comment on CAS’ website (www.env.gov.bc.ca/cas/mitigation/ggrcta/offsets-regulation/) October 2010 through December 2010. The consultation paper provided background information and identified consultation issues for discussion to build understanding about the subject and provide a structure for comments and feedback on the proposed regulatory approach.

1.2 Purpose and format of the *Summary of Public Comments* document

This document has been prepared for CAS with assistance from C. Rankin & Associates, contracted by CAS to independently receive, compile and review comments. The summary of public comments is arranged by topic as presented in the consultation paper. Direct excerpts from submissions are included in quotation marks (“ ”). Square brackets ([]) indicate inferred or contextual terms.

The complete set of responses received through the consultation process has been compiled for staff review and consideration. As CAS begins the regulation drafting process, they will continue to work closely with businesses, First Nations, environmental organizations and community groups across the province to address the comments raised.

1.3 Description of responses received

Twenty-six responses to the consultation paper were received by December 15, 2010. Most of the respondents provided substantive and comprehensive comments following the subject areas and structure of CAS’ consultation paper and response form. Many submissions also included a cover letter and/or supplementary information regarding the respondent’s background and interest in development of the regulation. This information has been reviewed for inclusion in the summary under applicable topic areas or as “other comments” (see section 7 below).

The responses included submissions from provincial and regional industry sectoral associations – including oil and gas producers, downstream petroleum products, forestry, cement and agriculture. Responses were also received from energy utilities, offset project developers/ aggre-

gators, environmental/ public interest organizations and standards development organizations. A limited number of submissions were also received from individuals with an interest in development of the regulation and knowledge of the subject matter.

Respondents commonly acknowledged or explicitly supported the need for reduction of greenhouse gas (GHG) emissions on a global scale and expressed support for an offsets policy that facilitates and encourages emissions reductions “at least cost”. Many respondents expressed the desire for British Columbia offsets policy to “help to ultimately minimize the costs of carbon reduction and compliance by providing the maximum freedom around the creation and trade of legitimate carbon offsets.”

Many respondents commented that a cap and trade program should be as broadly based as possible. Respondents commonly encouraged CAS to develop common standards and protocols within the Western Climate Initiative (WCI), building off existing internationally recognized mechanisms. Respondents encouraged “creating a buoyant and investor-friendly emissions trading market that reduces uncertainty in line with other types of investment markets.”

Definition of an offset and the need for government certification of offsets was explicitly recognized and supported by many respondents commenting, for example, that “ensuring that emissions reductions are real is critical to ensuring the integrity of the cap and trade system and the use of offsets within that system.” Many respondents expressed concern that the supply of offsets recognized under British Columbia regulation may be limited, particularly in the early stages of the program, and encouraged CAS to take measures to address this concern such as broadening the geographic scope and project types eligible for offsets, and simplifying and facilitating development and validation of early projects.

Many respondents commented that the proposed offsets process may be “administratively complex.” Specific areas of concern for one or more respondents included: availability and cost of accredited third party assurance providers, the need for annual verification by a third party, requirements for a separate validator and verifier (rather than guidelines to ensure transparency and limit conflict of interest), provisions to facilitate development and validation of small or geographically dispersed offset projects, and ensuring timely review and approval of projects.

Additional comments provided by a number of respondents included: the difficulty in meeting the “additionality” criterion for an offset project and the relative merits of using project-specific baselines or performance standards, addressing issues around “permanence” of agriculture and/or forestry related projects, and long term liability and responsibility for ensuring permanence of offsets.

Public Comments

1. Development of the regulation

An offset protocol provides standards, tests and other project-type specific requirements to guide the conduct of a particular type of offset project. The proposed regulation would build on internationally recognized criteria, standards and terminology common to offset systems. In addition to developing the proposed regulation in accordance with the Western Climate Initiative (WCI) offsets system recommendations, CAS has reviewed past Canadian emissions-reduction pilot programs, existing international project-based schemes, the system under Alberta's Specified Gas Emitters Regulation and the federal framework *Canada's Offset System for Greenhouse Gases* (see consultation paper discussion topic area 1).

Response Form Topic Area 1.1: Please provide comments regarding development of the proposed regulation.

Respondents on this topic commonly expressed support for an offsets policy that “helps to ultimately minimize the costs of carbon reduction and compliance by providing the maximum freedom around the creation and trade of legitimate carbon offsets.” Several respondents noted that “it is important to ensure a transparent and administratively straight forward process [for] establishing and recognizing offsets” while expressing a concern that “the current B.C. offset system/process is administratively cumbersome and overly limits offset supplies.” Specific concerns raised by respondents included the potential costs associated with developing and registering offsets, and offset limits with respondents commenting, for example, that “if an offset is deemed valid it should be treated in the same way as a verified emission reduction by a capped facility as they are both equally beneficial.”

Numerous respondents noted British Columbia's participation in the Western Climate Initiative (WCI) and expressed support for development of a common cap and trade program among WCI partner jurisdictions on as broad a basis as possible. One respondent commented, for example, that “a continental cap and trade program is preferred” while another noted that “unique regulatory frameworks in each jurisdiction require unnecessary administrative burden and associated costs to industry in Canada, lowering our competitive stance on world markets.” A number of respondents expressed the view that “valid” offsets generated in “non-WCI regions [should be] eligible for use in B.C.”

Several respondents commented that “offsets should be as broadly based as possible with respect to project type and geography” and that “availability of [a sufficient quantity of] offsets will be vital in achieving emissions reduction targets...in a cost effective way.” One respondent, for example, further commented that “the aim of any climate change policy must be to incent and encourage emission reductions, innovation and investments in new technology in the non-capped sectors... offset[s] should be viewed as a carbon policy bridging tool to the clean energy future, acknowledging that technologies required to achieve significant absolute GHG reductions will take time to develop, and continued economic viability of industry is critical to encourage capital investment in those technologies.”

A number of respondents suggested principles for CAS in developing and finalizing the offset program. Several respondents suggested that “the offset system: 1) maximize the volume of emissions reductions while maintaining the environmental integrity of the system; 2) minimize administrative burden by making use of the best practices, protocols and policies of existing offset systems; 3) provide clear guidance and long-term certainty to participants by designing a cost-effective system that is as broad as possible and does not restrict the use of offsets, allows a single market for offsets to set offset prices, and provides for the use of offsets as irrevocable compliance instruments; 4) reward early action efforts.; and 5) align with other provincial and regional systems to improve the efficiency of project development and emissions reductions.” Another respondent proposed that “the combination of the carbon tax and cap and trade system [should] be: *effective* in that it provides an adequate incentive to invest in clean energy; *comprehensive* in that it applies to all sources of accurately measurable emissions; *fair* in that it ensures households, communities and businesses throughout the province are treated equitably and given an opportunity to be part of the solution; and *transparent* in that the public and B.C. businesses will have confidence that the approach is going to be effective, comprehensive and fair.”

Additional specific comments included:

- “[Fulfilling] standards for project reductions to be recognized as compliance for regulated operations under the *Cap and Trade Act*, for Public Sector Organizations under Carbon Neutral Government and [as] a standard of credibility for voluntary purchases... may be difficult if the criteria for acceptance of offsets is too restrictive... CAS should consider setting out differing high-level criteria for each of the three initiatives it seeks to support, even though the basic quality requirements (e.g., additionality, permanence) could remain the same”;
- “We would like to re-emphasize that the ultimate objective of B.C.'s cap and trade program is to reduce GHG emissions (globally) at least cost – as such, the focus should remain on whether or not an emission reduction is achieved, and not whether or not it will be profitable to do so – the definition of ‘additionality’ should be considered within this context”;
- “It is of note that standards including ISO14064-2 require project proponents to indicate departures from good practice guidance (GPG) and defend such a departure – a similar approach to overarching standards building in B.C. is highly recommended”;
- “[British Columbia] may consider gaining competitive advantage for investors in its nascent carbon market by creating a buoyant investor-friendly emissions trading market that reduces uncertainty in line with other types of investment markets”;
- “We recommend a limit on the percentage of offsets used to meet the cap in the range of 10-20%... to help ensure that the cap and trade system sends a strong carbon price signal and creates certainty about the level of reductions that are required from large emitters in B.C.”;
- “[Our organization] is very concerned with the proposed offsets limits proposed by British Columbia and the Western Climate Initiative – we feel [that] the limitation on the use of offsets will reduce the incentive for project developers to enter the market, reduce innovations and reductions in the non-capped sector and will not maximize low cost compliance options for regulated facilities... California recently increased its offset limit from 4% to 8%...while..this is a step in the right direct[ion], it does not go far enough”; and
- “We would like to see the fuel switching protocol used within the Pacific Carbon Trust (PCT) system approved as soon as possible within B.C.'s cap and trade system.”

2. Purpose and application of the proposed regulation

The purpose of the proposed Cap and Trade Offsets Regulation is to set out requirements for greenhouse gas reductions or removals by projects or actions to be recognized as offsets. The proposed regulation builds on the existing Emission Offsets Regulation and would be the single standard for developing compliance grade offsets issued by the Province. There would however, be a transition phase during which projects developed to the standards of the existing regulation would be recognized for the purposes of meeting government's carbon-neutral commitment (see consultation paper discussion topic area 2).

Response Form Topic Area 2.1: Please provide comments regarding purpose and application of the proposed regulation.

Many respondents who commented on this topic expressed agreement with or noted that "the purpose and application of the proposed regulation are generally sound." Support was commonly expressed also for the approach of drawing on existing and recognized standards and knowledge in developing British Columbia's cap and trade system.

Several respondents expressed a concern that the supply of offsets may be limited, particularly early in development of the system. Suggestions to address this concern included: use of the same protocols that have been approved for the Pacific Carbon Trust ("during the transition period"); encouraging "early movers" in the offset market (through "financing support [such as advance payments, letters of credit or government backed investment guarantees]"; and "issuance of credits for emission reductions generated since 2007." One respondent, for example, suggested that "to kick-start the offset market, [CAS] should consider approving an initial suite of offset project types (such as agriculture, forestry and waste management) and fast-tracking offset project protocols that have already been approved in other jurisdictions (such as protocols under the Alberta Offset System and the Kyoto Protocol's Clean Development Mechanism)." Another respondent commented that "much of the... potential for offsets is from small projects and from sectors [that] are fundamentally disaggregated... [which] creates significant challenges to the cost-effectiveness of the offset development process." Several respondents suggested "limit[ing] offset fees including onerous registration and verification costs" to facilitate development of offset projects.

One respondent provided detailed comments regarding offsets related to the forestry sector, "applaud[ing] the B.C. government for recognizing the potential carbon sequestration and storage value that forests and forest products offer" while noting three specific areas of concern:

- "Flexibility in the definition of permanence... it appears as if the project must be monitored for... a total project term of 125 years - other credible forest offsets standard initiatives, such as the American Carbon Registry and the draft North America Forest Carbon Standard have recommended much shorter terms, 40 years from project start on the case of the former;
- "The means by which the products from the forest are recognized... to [appropriately address] the significant benefit that forests and forest products can contribute to GHG reductions, most notably harvested wood products (HWP) and substitution of wood for fossil-fuel intensive products like steel and concrete...; and

- “Alignment of Forest Offset Protocol Initiatives...[such as the current] forest modeling project through the Forest Sector Climate Action Steering Committee... with the Offsets Regulation.”

One respondent with a background in development of standards provided a number of specific comments and recommendations, including:

- “Emission Reduction Units – we would recommend the use of an alternative descriptor of the units issued by regulator... [this is the term] used to describe emission reductions generated under the Joint Implementation program of the Kyoto Protocol of the United Nations Framework Convention on Climate Change – having the exact same words used in two programs is likely to be confusing to the market – moreover, should the unlinked frameworks currently in place move towards integration, having the same words describing two different units would further confuse the market;
- “Approval of new protocols – ... we recommend that CAS ensure that the protocols being presented for consideration be developed according to the rules set out by coherent and robust greenhouse gas (GHG) programs – for instance, it is important that there be a certain level of standardization in terms of the criteria that protocols need to meet, as well as the fact that the institutional frameworks under which protocols are developed should be free of conflicts of interest...;
- “Recognition of offsets issued by third parties – ... in order to ensure a robust supply of offsets, we recommend that the Secretariat recognize offsets issued by coherent and robust third-party voluntary GHG programs, at the very least during the early years of the program when the infrastructure and rules are still being developed and put into place – this would require that the Secretariat either do thorough due diligence on GHG programs... or set out criteria that would be used as part of an open application process...;
- “Program-level requirements versus protocol-level requirements – ... setting out certain requirements [such as rules for renewal of crediting periods, project start date, grouping of small projects, permanence] at a high level allows updates to be applied across the whole suite of protocols, rather than making the same change to each protocol.”

Additional specific comments included:

- “[Our organization] would recommend a transition period followed by a ‘stop/ check/ review/ modify’ phase prior to final implementation”;
- “The value and risks associated with offset generating projects need to be transparent and consistent over time to provide certainty for investment decisions”;
- “Please indicate the end date for eligibility of projects developed to existing standard/regs as soon as possible”; and
- “The purpose section... does not address what should be one of the fundamental purposes of the regulation: ensuring that any greenhouse gas reductions or removals recognized as offsets have a real, additional and lasting climate benefit.”

3. Proposed offsets eligibility criteria

The proposed regulation would set out criteria for the GHG reductions and removals that would be eligible as offsets under the *Greenhouse Gas Reduction (Cap and Trade) Act*. To a large

extent, these criteria would be realized through adherence to project protocols approved by the program authority. Project and protocol eligibility would be evaluated on the basis of consistency with clear criteria, including offset definition, real, additional, permanent and verifiable (see consultation paper discussion topic area 3).

A. Definition

Response Form Topic Area 3.1: Please provide comments regarding definition of an “offset” under the proposed regulation.

Many respondents commenting on this topic noted that they “agree with the definition of an offset and the need for government certification of offsets.” Several respondents continued with a request for “clarification” on a number of items, including: “clear ownership... a project developer should not have to establish contracts with entities involved in the project to demonstrate a lack of ownership of offsets by other entities – positive contractual assertions of ownership should suffice and trump any non-contractual claims; ... [the need for] a clear, transparent and efficient process for developing new offset protocols; [and]... geographic limits.” With respect to setting geographic limits for eligible offsets, a number of respondents commented that the emphasis should be placed on assurance of the integrity of the offsets rather than geographic source noting, for example, that “climate change is a global issue... an emission reduced is an emission reduced regardless of where the reduction occurs.” One respondent, for example, expressed “concern that a sufficient offset market may fail to develop if limited solely to WCI jurisdictions – given Canada’s general position along the cost-abatement curve and the administrative burden of offset projects, WCI partners could be largely dependent on California as their only substantial source for offsets.”

Additional specific comments included:

- “We support the evaluation of protocols in the area of waste management, specifically those targeted at preventing landfill methane emissions”;
- CAS “should refrain from imposing onerous procedural requirements that would derail otherwise worthwhile projects – a credible set of standard criteria will generate public confidence, ensure environmental integrity and minimize administrative costs;”
- “We recommend that the program administrators shift the focus to the real work of evidencing how a project satisfies... headings of evaluation sections under ISO14064-2 [such as quantifying emissions and emission reductions, managing data quality and monitoring and reporting];”
- Support for an “adequate legal framework for carbon ownership ... [to] resolve underlying uncertainties about ownership, and ...[address] Aboriginal Title and Rights”; and
- “Purchase of Gold Standard credits should be accepted.”

B. Real

Response Form Topic Area 3.2: Please provide comments regarding how the criteria demonstrate how a project’s emissions reductions are “real”.

Most respondents addressing this topic commented that they “agree with” the criteria outlined in the consultation paper and/or that “ensuring that emissions reductions are real is critical to ensuring the integrity of the cap and trade system and the use of offsets within that system.” Respondents also commonly recommended that “B.C. should standardize protocols [with those]...that have been adopted in other jurisdictions... to ensure the fungibility of offsets across participating jurisdictions.” One respondent, for example, commented that “a credible set of standard criteria will generate public confidence, ensure environmental integrity and minimize administrative costs.” Respondents also commonly commented that “quantification methodologies should not be overly onerous” and that they “be developed in consultation with experts in the specific offset activity.”

Additional specific comments included:

- “We agree that leakage is a key component of offsets that needs attention to ensure transparency – for most projects, we believe that leakage and indirect effects can be handled through simple estimates in the quantification phase – for more complex initiatives that have impacts beyond the project boundary, we see merit in the approach laid out by CAR’s forestry protocol that differentiates between activity shifting leakage and market leakage”;
- “The use of the word ‘real’ as one of the proposed offsets eligibility criteria should be strengthened to indicate that offset credits will only be issued after the reductions have taken place (ex post) – without such clarity this criterion, as written, could be interpreted to mean that ex ante credits could potentially be allowed”;
- “We agree that reductions that occur as a result of facility efficiency improvements, use of alternative fuels sources, etc. or through the purchase of verified offsets are real”; and
- “One of the key bottlenecks in the CDM is the principle that the same company cannot validate and verify a CDM project, requiring each project company to undertake two negotiations, two service contracts, etc... given the difficulty obtaining any validators/ verifiers for timely reviews, this is strongly recommended with an accompanying prohibition on success-based performance fees in such dual role cases to avoid any conflict, actual or apparent.”

C. Additional

Response Form Topic Area 3.3: Please provide comments regarding how the criteria demonstrate how a project’s emission reductions are “additional”.

This topic generated considerable comment with many respondents noting the “difficulty in defining ‘common practice’ [and/or] financial additionality” that has been experienced in other offsets systems. Respondents also commonly requested more clarity regarding how “additionality” would be defined in the regulation, specifically in relation to how “business as usual” would be determined and how this would relate to technology deployment. One respondent, for example, commented that “[in the agriculture sector] practices [that] may be ‘business as usual’ in one part of the industry, may be relatively rare in another – if the approach to additionality criteria is excessively rigid it may discourage or limit the opportunities for agriculture’s offset projects.”

Several respondents noted that they “do not support the use of sector or activity specific performance standards as offset project baselines” and that instead “project specific baselines allow a project developer to generate ERUs equivalent to the real, additional and permanent emission reduction achieved.” One respondent commented that if performance standards are used for assessments of additionality “it is imperative that these performance standards and the protocols in which they reside are passed through a rigid additionality screen – the Kyoto Clean Development Mechanism has published additionality tools that provide excellent guidance... and ISO 14064-2 includes [guidance on determining the baseline scenario].”

One respondent recommended a “technology test” as an alternative approach (to performance standards or project based assessments) – “under such an approach the installation and use of a new technology that reduces emissions could be credited up until a certain market penetration – such an approach... has the potential for driving investment in new technologies in a way that reduces transaction costs, enhances the potential for scaling up the market and provides transparency.” Another respondent recommended creation of “an additionality doctrine/bible that gives high level guidance as to what *will be and will not be* considered additional, including several examples” to “save time and [avoid] delays for all parties.”

Additional specific comments included:

- “The process of establishing performance standards should be publicly transparent, and make it clear how the impact of ‘free riders’ (i.e., non-additional reductions that would have occurred any way through activities that already meet the performance standard) is being addressed – potentially by discounting the total number of offsets available from any project by a percentage related to the expected percentage of free riders”;
- “Municipalities under 3,000 people... should be included as eligible projects”;
- “The additionality of any offsets used in the cap and trade system should be clearly and conservatively established”;
- “One of the key regulatory requirements of additionality is the establishment of clear start and crediting dates to determine the eligibility of projects... proof of additionality for offsets from existing projects meeting the Eligibility Date should be no more burdensome than for new offsets – recognition of such offsets should be based on meeting the performance standards in the protocols, and not on any additional barriers test”;
- “We are of the opinion that any project, not covered under the cap and trade, that creates legitimate and verifiable carbon reductions or increases in sequestration/ storage should qualify as an offsets project if it can meet the level of rigor needed to be defensible – we do not agree with other definitions that require a financial test of the influence of the offsets incentive”; and
- “As currently proposed, the strict limit on the number of crediting periods will potentially stifle long term capital investment in GHG mitigation technologies – for example, capital intensive GHG mitigation projects, such as [energy from waste] EfW, are often financed for periods greater than 20 years – limiting the potential for carbon offsets for only the first twenty years could limit investment by withdrawing a significant cash flow stream while bonds for the construction of the facility are still being paid.”

D. Permanent

Response Form Topic Area 3.4: Please provide comments regarding how the criteria demonstrate how a project's emissions reductions are "permanent".

Several respondents raised three common points: 1) "support [for] making the project developer, not the purchaser of the offsets, responsible for intentional reversals or reversals due to negligence"; 2) "support [for] the development of a contingency fund to cover reversals that are not the result of a project developer's negligence or intent"; and 3) "[our organization] would like to see further discussion around long term liability." Several respondents also expressed support for "a risk based approach to managing reversals and permanence issues for projects that may be subject to reversals" and recommended "use of a government approved assurance factor embedded in the relevant protocol to create an offset reserve pool – this reserve, combined with the requirement for project developers to provide replacement compliance units following an intentional or negligence initiated reversal, [would] provide the credibility required to demonstrate permanence."

Other respondents expressed differing views, commenting, for example, that "B.C. should allow maximum flexibility around offsets permanence in terms of who carries the risk and how it is carried... as long as the binding instrument is effective, there should be little concern whether the buyer, developer or another party holds the risk." One respondent commented that "control of the offset lies most directly with the project proponent, and the responsibility for any escape of greenhouse gases should be strict, rather than based on negligence, with very limited circumstances, if any, under which the proponent would be excused from responsibility – to hold otherwise removes any incentive for project proponents to act any more conservatively than a basic due diligence standard would suggest."

One respondent recommended that "CAS consider alternative approaches to managing reversals... specifically... an approach that would incorporate all of the key factors contributing to non-permanence risk into a single risk tool, which would be more comprehensive than what would be required to assess only non-intentional risk, and rely on the buffer pool (contingency account, as defined in the regulation) for all reversals – we strongly believe that giving the market the option of addressing permanence through a mechanism that does not require distinguishing between intentional and non-intentional reversals and yet is robust will allow the market to function effectively and generate a robust supply of forestry (and agriculture) offsets."

Several respondents commented on forestry or agricultural issues related to offsets and permanence. One respondent, for example, noted that with "heavy liability requirements on project developers, it is likely that corporate structures that avoid liability will be devised, ultimately undermining the force of government recourse and the security it was hoping to achieve – the only secure regulation is a fair regulation." The respondent recommended that "a buffer reserve of unsold offsets should be collected from AFOLU (Agriculture, Forestry and Other Land Uses) offsets – this is common practice across most offset systems, and is very well suited to the sector." Another respondent commented that "the requirements and definitions surrounding permanence are the most significant barrier to generating agricultural offset projects – the requirement for emission reductions or removals to last 100 years does not support the immediate

and near future need for offset projects during the transition to a low carbon economy.” The respondent “strongly encourage[d] implementation of mechanisms for supporting agricultural biological sink projects, particularly as an interim measure” noting that the Intergovernmental Panel on Climate Change identifies agricultural practices with “interim mitigation potential includ[ing] no-till and reduced till, grassland restoration, cover cropping and planting of trees and woody perennials.”

Additional specific comments included:

- “Control of the offset lies most directly with the project proponent, and the responsibility for any escape of greenhouse gases should be strict, rather than based on negligence, with very limited circumstances, if any, under which the proponent would be excused from responsibility... to take this approach is not in any way unfair to the proponent, who can manage those risks through prudent behaviour and through private (rather than taxpayer-based) insurance schemes”;
- “All of the ex-ante and ex-post options should be allowed for use based on the type of offset project – specifically as it relates to land based forest and forestry projects, we believe privately held lands are a good fit for ex-ante instruments that attach legal conditions to the parcel of land”; and
- “Should B.C. ever decide to accept offset credits from reduced deforestation and forest degradation (REDD), or any offsets facing non-permanence risk from developing countries, the distinction between intentional and non-intentional reversals becomes even more complicated given the differing legal frameworks in place and the fact that enforcement is not necessarily consistent.”

E. Verifiable

Response Form Topic Area 3.5: Please provide comments regarding how the criteria demonstrate how a project’s emissions reductions are “verifiable”.

Comments on this topic area were limited and generally consistent. Respondents commonly expressed support for the approach outlined in the consultation paper commenting, for example, that “project plans, protocols and methodologies should be well-documented and transparent and the use of third party verifiers is necessary.” Several respondents raised concern that a “lack of accredited verifiers could cause a bottleneck in getting offsets to market” and recommended a “phase in period... to allow interested third parties to become accredited.” A number of respondents also encouraged CAS to “work with other WCI partner jurisdictions to develop consistent requirements,” to “ensure that verification service providers meet established qualification criteria and that standards are consistently enforce[d] against such service providers.”

One respondent noted that “validation and verification costs can be significant for small projects.” To address this issue the respondent recommended to develop and approve “methodologies that incorporate an assessment of the additionality of project type directly into the methodology (e.g. as currently done by the Climate Action Reserve in the US)”; restriction of validation requirements to “approval of new or non-standard methodologies”; and allowing “the project validator [to] also be able to act as the project verifier.” Another respondent re-

quested that the title of this requirement be changed to “verified” as “an offset isn’t truly an offset until it is verified.”

F. Other criteria

Response Form Topic Area 3.6: Please provide comments regarding any additional eligibility criteria that should be considered for cap and trade offsets.

Many respondents who commented on this topic felt that the list described in the consultation paper was “sufficient”. Those that felt that the criteria were “overly restrictive as proposed” suggested that there is “not... a need to impose any additional eligibility criteria on the development of use of offsets under the cap and trade system.” Several respondents reiterated their recommendation that “protocols currently developed under other emission reduction programs should be considered for adaptation and use under the B.C. offset system.” One respondent characterized this as “harmonization and linkages” – “enabling British Columbia to link to broader trading systems.”

A limited number of respondents commented specifically on the topic of environmental and/or socio-economic assessments as an element of offset projects. One respondent commented, for example, that “impact assessments and decisions about the environmental and socio-economic trades off with a potential offsets project should be handled under existing Partner legislation that assesses and ultimately permits or denies an initiative to progress.” In contrast, another respondent commented that “offset protocols approved for use under [the regulation] should have requirements for environmental and socio-economic assessments specific to the project type... offsets will be providing a government-sanctioned financial incentive for project developers, and should not be rewarding, for example, environmentally harmful practices that may not be covered by other regulations, whether because of the scale of the project or the failure of B.C.’s laws to adequately address the cumulative environmental impacts of activities or have in place legally enforceable measures to ensure the resilience and adaptive capacity of B.C.’s ecosystems in light of climate change.”

Additional specific comments included:

- “There are significant advantages to the province in recognizing emission reduction projects using B.C. developed technology, regardless of where they are located in North America”;
- “Assessment of the impact of individual project types on co-benefits should be limited to regulatory requirements”;
- “In order to support the cost effective development of quality offsets in light of the small scale of most potential sources of industrial offsets in B.C. [we recommend:]... that the ability to aggregate multiple small emission reductions of a similar type (regardless of location within the Province) be explicitly allowed in the Regulation...; [and] the regulation should explicitly allow performance-standard based protocols and programmatic approaches [such as a checklist approach]”;
- CAS “could provide direct support to assist offset developers and purchasers in establishing viable offsets similar to the services offered by the Pacific Carbon Trust”;

- “[We] would suggest that emphasis is placed on harmonizing the administrative processes... with other cap and trade regulations”; and
- “Revocability – once certified [our organization] recommends that offsets be non-revocable... adopting a rigorous assurance process is the best approach to ensuring that offsets are of high integrity and permanent... furthermore, any system that allows for the revocation of offsets introduces additional risk and associated costs.”

4. Proposed offsets process

The consultation paper outlines six steps in the offsets process that will be established under the proposed regulation – project plan; validation; registration; project monitoring, measurement, quantification and reporting; verification; and certification and issuance (see consultation paper discussion topic area 4 and appendix A).

Response Form Topic Area 4.1: Please provide comments regarding the general proposed offsets process.

Several respondents commenting on this topic expressed concern that the process outlined in the consultation paper was “overly complex.” Suggestions to address this concern included: “streamlining” third party validation and verification requirements; mandating a “balanced” (rather than “conservative”) approach to evaluating offsets created by a project (maintaining “the quality of offsets while ensuring that the review and approval process does not result in a barrier to development of new offset protocols or offset projects being undertaken”); adoption of existing process elements from other jurisdictions “without re-creating a custom approach”; and establishing clear and defined timelines for each process step (addressing “bottlenecks” that may occur due to limited availability of third party validators/verifiers).

A number of respondents also noted that they “do not support a public comment procedure at the project level” as such a provision would (in the words of one respondent) “result in additional costs and unnecessary time delays, and administrative burden to an already time intensive and time sensitive process.” One respondent raised “two questions that may clarify the purpose of the public review step [1] whether there would be a size threshold or other criteria to trigger the public review process; and [2] whether the public review process would be applied to new project types for which protocols have not been approved or to all projects, regardless of type.”

Additional specific comments included:

- “The administrative cost associated with offset project development and maintenance is likely to be prohibitive for small to medium sized enterprises... while project aggregation can help reduce the administrative cost per offset, this reduction will likely be insufficient to enable the vast majority of agricultural projects to deliver offsets to the market above cost – it is important that the Western Climate Initiative as a whole, and B.C. specifically, identify mechanisms to facilitate projects of various sizes and that the administrative and risk management process appropriately reflect the scope and potential impacts of the project reversal”;

- “The [regulation] should not endorse the idea that a project developer can simply change its intention in respect of offset lands without significant and real penalty, including but not limited to a requirement to replace several times the compliance units – to hold otherwise encourages the reversal of offsets if the price of compliance units becomes sufficiently low”;
- “We suggest that the system allows forest offset project developers to select for a longer verification interval than the listed one year.”

Response Form Topic Area 4.2: Please provide specific comments regarding any of the steps in the proposed offsets process.

A limited number of comments were received under this topic area. Several respondents addressed verification requirements, commenting, for example, that “annual verification should only occur if the project developer wants to bring ERUs into the market on an annual basis” or that “verification on a five year cycle would be more appropriate, as annual verification has the potential to stop many projects due to the administrative and financial burden.”

A number of respondents commented that “standards based protocols” should be used rather than a “project by project” approach to assessing offset projects. One respondent, for example, outlined three benefits to a standards based approach: “1) easier program administration; 2) a more predictable process for project approvals; and 3) greater certainty of environmental benefits by lowering the risk premium for such reductions.”

Additional specific comments included:

- “Experience in the CDM process saw project review times during registration increase from 90 days to 180 days in recent years. To ensure expediency, [CAS] may consider a mechanism – such as a service level agreement – to complete credit issuances within a certain period... alternatively [CAS] could consider spot audits of verification statements for projects or an oversight mechanism of the accreditation process itself to ensure bodies are appropriately accredited during verification”;
- “The B.C. offset industry has adapted and is developing protocols under the current offset regulation for the B.C.'s carbon neutral government market – these protocols (e.g., fuel-switching and forest carbon offset protocol) should be assessed and adapted for the WCI market as soon as possible to work toward harmonizing standards across B.C. offset markets”; and
- “To improve market certainty, [CAS] could outline more information about the protocol approval process as soon as feasible – building a broad stakeholder consultation process would allow a broad range of market experience from B.C. to contribute.”

5. Program schedule and provisions for third party assurance providers

The program authority would publish a schedule with B.C. offsets system submission deadlines and anticipated program authority review dates. The proposed regulation would make use of approved third parties to conduct quality control and quality assurance procedures. This reliance on third parties would be supplemented by risk based audit and review directed by the program authority (see consultation paper discussion topic area 5).

Response Form Topic Area 5.1: Please provide comments regarding publication of a program schedule.

Respondents who commented on this topic almost universally noted that “the B.C. government should publish and follow a program schedule” as an important element of the overall offsets program. A number of respondents commented that commitment on the part of the program authority to time lines for each step of the process is also important to build confidence in the program.

Response Form Topic Area 5.2: Please provide comments regarding third party assurance providers.

Many of the respondents who commented on this topic expressed concern that there may not be sufficient numbers of accredited third party assurers available to support timely development and recognition of offset projects, particularly in the early stages of the program. Many respondents also commented that “there should be no need for annual verification.”

Several respondents sought “clarification” from [CAS] on three questions: “can the validator and verifier be the same third party assurance provider for a project”; “how long can a project developer work with a specific assurance provider on the same project or different projects”; and “what [is] the cool off period before the developer can work with a third party assurance provider again?”

Additional specific comments included:

- “Some form of a stepped process [could] assist in the availability of properly certified providers”;
- “With the expected shortage in third party assurance providers, flexibility is needed to ensure that the third party assurance market is able to meet demands without unnecessary restrictions – the ability to use the same assurance provider may also help with cost containment for project developers”;
- “[The consultation paper states that] the project developer’s application for offset certification will not be considered if the validator of the project has not been approved as an accredited body by the time of certification – [this provision] may act as a disincentive by increasing the risk of using applicants, and thereby preventing applicants the opportunity to perform practice audits as part of their training”; and
- “It would be beneficial to disclose the criteria for pass or fail of [the] final review [of the verification statement and report before credit issuance] before certification to help ensure transparency and mitigate delays at this stage.”

6. Public disclosure

In the interest of public disclosure, the offsets system should provide transparency such that sufficient and appropriate protocol, project and certificate information is disclosed in a timely

manner to allow offsets system participants and the general public to make decisions with reasonable confidence (see consultation paper discussion topic area 6).

Response Form Topic Area 6.1: Please provide comments regarding the provisions for public disclosure under the proposed Cap and Trade Offsets Regulation.

Respondents addressing this topic commonly noted, for example, that “there must be transparency in the system to instill confidence of users and the general public” while “information of a commercially sensitive nature” should not be disclosed by the regulator. Respondents commented often that “full disclosure on protocols and their development” is appropriate while information such as “counterparty, volume and price information associated with offset purchase and sale transactions” should not be disclosed. Several respondents commented that “project specific public disclosure shouldn’t exceed the level of disclosure that occurs within other WCI jurisdictions or in adjacent competing non-WCI jurisdictions such as Alberta.”

Additional specific comments included:

- “Any public disclosure should be at an aggregate level and not operation/project specific – only cap and trade market participants should have access to more detailed information on offset protocols, projects and certificate information to allow market participants to make decisions with confidence”;
- “The Province [should be] be mindful of the potential deleterious effects which may be incurred by regulated emitters if they are unable to negotiate the purchase of offsets from a position of confidentiality”;
- “We support the release and publication of validation and verification related documents – project plans should be made public, as [they are under] other reputable systems such as the Voluntary Carbon Standard, and the Clean Development Mechanism”; and
- “Commercially, [it] is not easy... to achieve [a balance between confidentiality and transparency], particularly when trying to convince major industry to participate and they consider much of the required data to be proprietary – suggest [that CAS develop] disclosure guidelines that have feedback from industry [before they] are adopted.”

7. Other comments

Response Form Topic Area 7.1: Please provide any additional comments on any aspect of the proposed Cap and Trade Offsets Regulation that you feel may have not been addressed in the consultation paper and discussion topic areas.

Many respondents provided detailed comments and/or background information in addition to addressing the topic areas identified in the consultation paper. The complete set of comments has been compiled and conveyed to CAS staff for review and consideration. The information and excerpts in the following points are a selection of these additional comments, emphasizing topics that have not been summarized under previous topic headings.

Additional comments included:

- “There is an opportunity to further reduce greenhouse gas emissions in the province by adding Ozone Depleting Substance (ODS) chemicals to the six greenhouse gases allowed under the Carbon Neutral Government Regulation – offset projects that mitigate the release of ODS can then be assessed for eligibility under B.C.'s carbon neutral government commitment, thereby providing another incentive to prevent these chemicals with high global-warming potential from entering the atmosphere”;
- “To date only a small number of agricultural producers in British Columbia have participated in the voluntary offset market and the regulated market guided by the B.C. Emissions Offset Regulation... [and] limited government resources have been dedicated to assessing the potential of agricultural practices and technologies to contribute to greenhouse gas emission reduction and removal (sequestration) – nonetheless, the agriculture industry has the potential to provide ‘home-grown’ emission reductions and removals that also reflect the ongoing industry commitment to minimizing environmental impacts and providing sustainable food sources”;
- “I am not clear on the tax status of carbon credits in B.C. – while taxing carbon credits is not the remit of the Ministry of Environment, clearly this has the potential to dramatically affect the emissions trading market – for example, the Netherlands set a fixed low VAT rate on emission trades very early on in the life-cycle of the EU ETS, which served to give distinct advantage by creating certainty... this was one key factor that enabled a disproportionate amount of transactions to be undertaken, registered, held, etc... in or via the Netherlands, driving revenues along with them”;
- “Appeal process – The CDM has been much maligned for its lack of transparency at the actual Executive Board decision-making level/process... this is also a matter of due process that should be present in any system that intends to be transparent and for the benefit of the public of B.C. – [an appeal process should provide] recourse for the project participants, and... guidance as to how to amend for the next project – [also] precedents would be most useful for the applicants and the rest of the market”;
- “We highly recommend that [CAS] set up guidelines for submission of new performance-standard based protocols, as well as project specific methodologies... for example, the CDM ACM2 Methodology, ‘grid-connected electricity generation for renewable sources (no biomass)’ has been used by 1843 projects in the CDM, CDM AMS-III.H., ‘methane recovery in wastewater treatment’ has been used for 246 projects and ACM1 ‘landfill gas project activities’ has been used 229 times”;
- “Cap and trade through the WCI offers three potential advantages that justify pursuing it as a complement to B.C.’s carbon tax: 1) B.C. would address two important gaps in the province’s carbon tax – industrial process emissions and the emissions from imported electricity; 2) B.C. can help kick start a broader effort to reduce greenhouse gas emissions...; [and] 3) B.C. can help increase the market demand for clean energy and energy efficiency solutions that B.C. businesses will be able to compete for... – with the combination of the carbon tax and the cap and trade system, B.C.’s carbon pricing approach will be exceptionally comprehensive – in terms of effectiveness, fairness and transparency, there are opportunities for improvement, for which we offer the following seven recommendations: 1) maintain the carbon tax for at least the first compliance period...; 2) set price floors for auctioned & allocated allowances equal to the carbon tax...; 3) eliminate or further reduce re-

liance on offsets...; 4) set allowance budgets in line with B.C.'s Climate Action Plan...; 5) distribute all allowances by auction...; 6) use a portion of revenues to mitigate demonstrated competitiveness impacts... [and]; 7) eliminate early reduction allowances”;

- “The key issues that we draw your attention to are...fundamental design issues, particularly with regard to offsets, that are more stringent than [other] approach[es]”;
- “[Our organization] requests... more information... [regarding] what would trigger a ‘project plan revision’... a deviation that does not impact the outcome of the project and does not jeopardize the status of the offset... [should not require a project plan revision]”; and
- “We support British Columbia’s recognition of coal mine ventilation air methane (VAM) offsets as a reliable source of offsets for British Columbia’s cap and trade program – our recommendations can be summarized as: 1) recognize VAM oxidation as an eligible offset project category for the first compliance period; 2) adopt a coal mine methane (CMM) protocol based on the Climate Action Reserve’s existing CMM Project Protocol; [and] 3) recognize VAM [carbon reduction technologies and emission reductions] generated by projects started after October 7, 2007.”

Appendix A: Acronyms and Abbreviations

Acronym or Abbreviation	Definition
AFOLU	Agriculture, forestry and other land uses
B.C.	British Columbia
CAR	Climate Action Registry
CAS	Climate Action Secretariat
CDM	Clean development mechanism (Kyoto Protocol)
CMM	Coal mine methane
EfW	Energy from waste
e.g.	for example
EITE	Emission intensive trade exposed (industry sector)
ERU	Emission reduction unit
EU ETS	European Union Emission Trading Scheme
GGRCTA	<i>Greenhouse Gas Reduction (Cap and Trade) Act</i>
GHG	Greenhouse Gas
GPG	Good practice guidance
HWP	Harvested wood products
i.e.	that is
ISO	International Organization for Standardization
PCT	Pacific Carbon Trust
US	United States of America
VAM	Ventilation air methane
VAT	Value added tax (EU)
WCI	Western Climate Initiative