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Greenhouse Gas Reduction Targets Act

EMISSION OFFSETS REGULATION

Contents

- 1 Definitions and interpretation
- 2 How measurements of greenhouse gas reductions and removals are to be expressed
- 3 Project plans
- 4 Validation of project plan
- 5 Project reports
- 6 Verification of project reports
- 7 Protocols and guidelines
- 8 Recognition of emission offsets
- 9 Records
- 10 Qualified professionals
- 11 Amendment
- 12 Transition

Definitions and interpretation

- 1 (1) In this regulation:

"Act" means the *Greenhouse Gas Reduction Targets Act*;

"baseline emissions", in relation to a project, means an estimate of greenhouse gas emissions from all selected sources and reservoirs, assuming the project is not carried out;

"baseline removals", in relation to a project, means an estimate of removals by all selected sinks and reservoirs, assuming the project is not carried out;

"baseline scenario", in relation to a project, means one or more hypotheses that

(a) are made, in part, on the assumption that the project is not carried out,

(b) are about activities that will have an effect on greenhouse gas emissions or removals, and

(c) enable the estimation of baseline emissions and baseline

removals;

"carbon dioxide equivalent" has the same meaning as in the Carbon Neutral Government Regulation;

"conservative", in relation to a greenhouse gas reduction, means a greenhouse gas reduction that is unlikely to have been overestimated;

"controlled source, sink or reservoir", in relation to a proponent, means a greenhouse gas emissions source, sink or reservoir that is controlled, directly or indirectly, by the proponent by legal, financial or any other means;

"director" has the same meaning as in the Carbon Neutral Government Regulation;

"emissions reduction" means baseline emissions minus project emissions;

"greenhouse gas reduction" means

(a) a reduction of greenhouse gas emissions, or

(b) an enhancement of greenhouse gas removals;

"ISO" means the International Organization for Standardization;

"ownership", in relation to a greenhouse gas reduction, includes an established right to claim legal or commercial benefits arising from the achievement of the reduction;

"project" means a course of action undertaken to achieve a greenhouse gas reduction;

"project emissions" means an estimate of greenhouse gas emissions from all selected sources and reservoirs;

"project period" means the period during which a proponent carries out a project;

"project plan", in relation to a project, means a plan prepared in accordance with section 3 or 7, whichever applies to the project;

"project reduction" means the total of the emissions reduction and the removals enhancement, less any discounts applied in accordance with a risk-mitigation and contingency plan referred to in section 3 (2) (r);

"project removals" means an estimate of removals by all selected sinks and reservoirs;

"project report" means a report prepared in accordance with section 5 or 7, whichever applies to the project;

"project start date" means the date on which the project begins active operation;

"proponent" means a person who proposes either to carry out or to engage another person to carry out a project to generate emission offsets for the purposes of the Act, and includes a person who has carried out a project;

"qualified professional", in relation to a duty or function under this regulation, means an individual who

(a) is registered in Canada with a professional organization, is acting under that organization's code of ethics, and is subject to disciplinary action by that organization, and

(b) through suitable education, experience, accreditation and knowledge, may reasonably be relied on to provide advice within his or her area of expertise, which area of expertise is applicable to the duty or function;

"removals enhancement" means baseline removals minus project removals;

"removals" means the reduction of atmospheric concentrations of greenhouse gases through

(a) the removal of greenhouse gases from the atmosphere, and

(b) the storage or sequestration of carbon or greenhouse gases in a reservoir;

"reversal" means loss to the atmosphere of an amount of carbon or greenhouse gases stored or sequestered in reservoirs;

"selected", in relation to a source, sink or reservoir, means a source, sink or reservoir to be considered in the calculation or estimation of a project reduction;

"validation body" and "verification body" mean

(a) a team that includes

(i) a person who is authorized to act as an auditor of a company under section 205 of the *Business Corporations Act*, and

(ii) at least one qualified professional, or

(b) a body accredited, in accordance with ISO 14065, by a member of the International Accreditation Forum to use ISO 14064-3;

"validation period" means the period beginning on the project start date and ending on the date the validation expires.

(2) In this regulation, an expression formed by juxtaposing ISO and a number refers to a standard made by the ISO, as amended from time to

time, and named in part by that number.

How measurements of greenhouse gas reductions and removals are to be expressed

- 2 For the purposes of the Act, reductions and removals must be expressed in tonnes of each specific greenhouse gas measured in carbon dioxide equivalent.

Project plans

- 3 (1) A proponent must
 - (a) prepare a project plan, and
 - (b) submit the project plan to a validation body for review under section 4.
- (2) Subject to section 7, a project plan must contain all of the following:
 - (a) the title of the project and a statement of the project's purposes and objectives;
 - (b) the name and address of the proponent and of any other person responsible for carrying out the project;
 - (c) a description of the roles and responsibilities of persons responsible for carrying out the project;
 - (d) contact information for persons who can provide information regarding any government programs providing financial or other assistance for the carrying out of the project;
 - (e) a technical description of the project and an explanation of how carrying out the project will achieve a greenhouse gas reduction;
 - (f) project identification information, including geographical information about the location where the project will be carried out and any other information allowing for the unique identification of the project;
 - (g) a chronological plan for the project, including the anticipated or actual project start date;
 - (h) identification of protocols the proponent intends to comply with to quantify the project reduction and a justification for selecting the protocols and, if applicable, adjusting the protocols;
 - (i) a description of the project's baseline scenario, including
 - (i) a description of potential baseline scenarios considered when selecting the project's baseline scenario,
 - (ii) a description of the assumptions on which the baseline scenario is based and a justification of the reasonableness of

those assumptions, and

(iii) a statement of the period of time for which the baseline scenario applies;

(j) an assertion by the proponent that the baseline scenario will result in a conservative estimate of the greenhouse gas reduction to be achieved by the project, considering

(i) existing or proposed regulatory requirements relevant to any aspect of the baseline scenario,

(ii) provincial or federal incentives relevant to any aspect of the baseline scenario, including tax incentives or grants that may be available,

(iii) the financial implications of carrying out a course of action referred to in the baseline scenario, and

(iv) any other factor relevant to justify the claim that the baseline scenario is reasonably likely to occur if the project is not carried out;

(k) an assertion by the proponent that there are financial, technological or other obstacles to carrying out the project that are overcome or partially overcome by the incentive of having a greenhouse gas reduction recognized as an emission offset under the Act, and a justification for the assertion;

(l) an assertion by the proponent that the project start date is no earlier than November 29, 2007;

(m) identification of the project's selected sources, sinks and reservoirs and an explanation of why those sources, sinks and reservoirs were selected;

(n) for each selected source, sink or reservoir,

(i) a description of the methods to be used

(A) to make estimates or measurements for the purposes of calculating emissions reduction and removals enhancement,

(B) to undertake any relevant data collection and monitoring, including a description of quality assurance and quality control provisions to be complied with,

(ii) a description of the frequencies by which measurement and monitoring will be undertaken, and

(iii) a justification of the methods described in subparagraph

(i) and the frequencies described in subparagraph (ii);

(o) an assertion by the proponent that

(i) the proponent's selected sources, sinks and reservoirs,

and

(ii) the methods referred to in paragraph (n) (i),

will ensure that the total of the emission reduction and the removals enhancement is an accurate and a conservative estimation of the greenhouse gas reduction, with respect to which the proponent has ownership, that is to be achieved during the validation period from controlled sources, sinks or reservoirs in British Columbia, taking into account increases in emissions or reductions in removals, as compared to the baseline scenario, from sources, sinks or reservoirs other than controlled sources, sinks or reservoirs;

(p) the estimated project reduction for each year of the project during the validation period, a description of the formulae used in the estimation and the calculations used in making the estimation;

(q) an assertion by the proponent that the proponent, with respect to the greenhouse gas reduction to be achieved by carrying out the project, has a superior claim of ownership of the reduction to that of any other person;

(r) if the project involves

(i) the capture and storage or capture and sequestration of a greenhouse gas emissions from a source,

(ii) removals by controlled sinks, or

(iii) avoided emissions from controlled reservoirs,

a risk-mitigation and contingency plan for the purpose of ensuring that the atmospheric effect of a greenhouse gas reduction achieved by the project will endure for a period

(iv) comparable to the period that the atmospheric effect of a greenhouse gas reduction achieved by carrying out projects not of a type referred to in subparagraph (i), (ii) or (iii) will endure, or

(v) of at least 100 years;

(s) if paragraph (r) applies to the project, an assertion by the proponent that the plan referred to in paragraph (r) is reasonably likely to achieve the purpose referred to in that paragraph;

(t) the results of an assessment of the uncertainty associated with the estimation of the greenhouse gas reduction to be achieved by carrying out the project, and, if no guideline issued under section 7 (4) for the purposes of this paragraph applies to the project, a description of the procedures used to conduct the assessment;

(u) a description of any analysis undertaken to determine the

environmental impact of carrying out the project;

(v) a description of any consultations undertaken respecting the project and a summary of the results of the consultations;

(w) an assertion by the proponent that the project plan meets the requirements of this regulation.

(3) A risk-mitigation and contingency plan referred to in subsection (2) (r)

(a) must be for the project period and for a reasonable period of time after that, and

(b) may include any of the following:

(i) a plan for the maintenance and long-term protection of controlled sinks and reservoirs and for keeping records related to that maintenance and protection;

(ii) a description of legal means taken for the long-term protection of selected sinks and reservoirs;

(iii) to identify any reversal, a plan for monitoring selected sinks and reservoirs and for keeping records relating to the carrying out of the monitoring;

(iv) a description of any contractual or other arrangements for securities, contingency funds, or set-asides to address the risk of a reversal;

(v) a description of any discounts to be applied in the calculation of project reductions;

(vi) a description of any arrangements made to replace emission offsets in the event of a reversal.

Validation of project plan

4 (1) Subject to subsections (2) to (4), a validation body may validate a submitted project plan if the validation body is satisfied that the project plan, including the assertions in the project plan, is fair and reasonable.

(2) A validation body may not make a validation under subsection (1) if the validation body considers that the project plan is subject to material errors, omissions or misrepresentations.

(3) For the purposes of subsection (2), a project plan is subject to material errors, omissions or misrepresentations if

(a) the aggregate or individual effect of an error, omission or misrepresentation related to the project plan make it probable that the judgment of a reasonable person judging an assertion required to be in the project plan would have been changed or influenced by the error, omission or misrepresentation, or

(b) the errors, omissions or misrepresentations are material as

determined in accordance with a guideline, if any, issued by the director under section 7 (4).

(4) A validation body may only validate a project plan in a manner consistent with ISO 14064-3.

(5) If a validation body makes a validation under subsection (1), a member of the validation body must sign a statement of assurance that includes all of the following:

(a) name, address and other contact information for the validation body;

(b) date of the statement of assurance;

(c) a statement that the validation is made in a manner consistent with ISO 14064-3 and in accordance with this regulation;

(d) a description of the work the validation body performed to make the validation, including a description of

(i) the techniques and processes used to test the greenhouse gas information and associated assertions, and

(ii) any additional information, not in the project plan, directly or indirectly relied on by the validation body in the course of making the validation;

(e) a statement that the project plan, including the assertions in the project plan, is fair and reasonable;

(f) an assertion that the person signing the statement of assurance is or represents a validation body under this regulation.

(6) If a validation body makes a validation under subsection (1), a member of the validation body must sign a cover letter, to be attached to the statement of assurance referred to in subsection (5), that includes a description of all of the following:

(a) the education, experience, accreditation, professional designation and knowledge of the individuals carrying out the validation, including areas of competency relevant to the project;

(b) any relevant accreditation that the validation body holds;

(c) the procedures or policies complied with by the validation body and the individuals referred to in paragraph (a) to ensure their independence and the lack of any conflicts of interest;

(d) a description of the quality assurance and quality control, record keeping and data management procedures used by the validation body.

(7) Subject to subsection (8), a validation made under subsection (1) expires 10 years after the date of the statement of assurance referred to in subsection (5).

(8) The director may order that the validation period for a project or any class of projects expires on a date or after a period of time specified in the order.

(9) An order made under subsection (8) does not apply to a project for which a project plan was validated under subsection (1) before the order was made.

(10) A signed statement of assurance for a project, including the attached cover letter referred to in subsection (6), is to be considered a part of the project's project plan for the purposes of sections 5 (2) (b) and 9.

Project reports

5 (1) A proponent must

(a) prepare a project report,

(b) submit the project report and a copy of the project's validated project plan to a verification body for review.

(2) Subject to section 7, a project report must contain all of the following:

(a) an assertion of the project start date;

(b) an assertion by the proponent that the project's project plan was validated in accordance with this regulation;

(c) an assertion by the proponent that the period covered by the report is within the validation period and within the period referred to in section 3 (2) (i) (iii);

(d) an assertion by the proponent that the project was carried out as described in the project plan, except as described in the project report;

(e) an assertion of the project reduction, emissions reduction and removals enhancement;

(f) calculations supporting the assertions referred to in paragraph (e), including calculations for each selected source, sink or reservoir;

(g) an assertion by the proponent that the proponent, with respect to the greenhouse gas reduction to be recognized as emission offsets for the purposes of the Act, has a superior claim of ownership of that reduction to that of any other person;

(h) evidence to support the assertion referred to in paragraph (g);

(i) an assertion that the project report complies with this regulation.

Verification of project reports

6 (1) Subject to subsections (2) to (4), a verification body may verify a

submitted project report if the verification body is satisfied that

(a) the assertions in the project report are materially correct and are a fair and reasonable representation of the project's greenhouse gas reduction, and

(b) there have been no material changes to how the project was carried out compared to the description of the project in the validated project plan, taking into account any guidelines issued by the director under section 7 (4) for the purposes of this subsection.

(2) A verification body may not make a verification under subsection (1) if the verification body considers the project report is subject to material errors, omissions or misrepresentations.

(3) For the purposes of subsection (2), a project report is subject to material errors, omissions or misrepresentations if

(a) the individual or aggregate effect of an error, omission or misrepresentation related to the project report make it probable that the judgment of a reasonable person judging an assertion required to be in the project report would have been changed or influenced by the error, omission or misrepresentation,

(b) the individual or aggregate effect of an error, omission or misrepresentation related to the project report could have resulted in an overestimation of project reductions by more than 5%, or

(c) the errors, omissions or misrepresentations are material as determined in accordance with a guideline, if any, issued by the director under section 7 (4).

(4) A verification body may only make a verification under subsection (1) in a manner consistent with ISO 14064-3.

(5) If a verification body makes a verification under subsection (1), a member of the verification body must sign a statement of assurance that includes all of the following:

(a) name, address and other contact information for the verification body;

(b) date of the statement of assurance;

(c) a statement that the verification is made in a manner consistent with ISO 14064-3 and in accordance with this regulation;

(d) identification of the project's asserted project reduction for the period covered by the project report against which the verification testing was conducted;

(e) a description of the work the verification body performed to make the verification, including a description of

(i) the techniques and processes used to test the greenhouse

gas information and associated project reduction assertion,
and

(ii) any additional information, not in the project report,
directly or indirectly relied on by the verification body in the
course of making the verification;

(f) a statement that the assertions in the project report are
materially correct and are a fair representation of the project's
greenhouse gas reduction;

(g) an assertion that the person signing the statement of assurance
is or represents a verification body under this regulation.

(6) If a verification body makes a verification under subsection (1), a
member of the verification body must sign a cover letter, to be attached to
the statement of assurance referred to in subsection (5), that includes a
description of all of the following:

(a) the education, experience, accreditation, professional
designation and knowledge of the individuals carrying out the
verification, including areas of competency relevant to the project;

(b) any relevant accreditation that the verification body holds;

(c) the procedures or policies complied with by the verification body
and the individuals referred to in paragraph (a) to ensure their
independence and the lack of any conflicts of interest;

(d) a description of the quality assurance and quality control, record
keeping and data management procedures used by the verification
body.

(7) A signed statement of assurance for a project, including the attached
cover letter referred to in subsection (6), is to be considered part of the
project's project report for the purposes of section 9.

Protocols and guidelines

7 (1) The director may establish or designate a protocol for any aspect of the
carrying out of a project in a class of projects, including, without limitation, a
protocol in relation to any of the following:

(a) the selection of sources, sinks or reservoirs;

(b) greenhouse gas reduction from sources, sinks or reservoirs
other than controlled sources, sinks or reservoirs;

(c) baseline scenarios;

(d) quantification of greenhouse gas reductions;

(e) data management;

(f) monitoring greenhouse gas sources, sinks and reservoirs;

- (g) evidence of ownership.
- (2) In designating a protocol for the purposes of subsection (1), the director may
 - (a) designate the protocol as it is amended from time to time, and
 - (b) make any amendments to the protocol that the director considers necessary.
- (3) Subject to subsections (5) to (7), if the director establishes or designates a protocol under subsection (1) for a class of projects, a proponent of a project within that class must
 - (a) comply with the protocol despite anything in section 3 or 5, and
 - (b) comply with section 3 and 5 to the extent that it is not inconsistent with the protocol.
- (4) The director may issue a guideline for the purposes of section 3 (2) (t), 4 (3) (b) or 6 (1) (b) or (3) (c), and a person to whom section 3 (2) (t) applies or who is exercising a power referred to in section 4 (3) (b) or 6 (1) (b) or (3) (c) must comply with the applicable guideline.
- (5) The director must provide public notice, in any form the director considers appropriate, of a protocol established or designated under subsection (1) or a guideline issued under subsection (4), and the protocol or the guideline comes into effect 3 months after the date the notice was first given.
- (6) A protocol established or designated under subsection (1) or a guideline issued under subsection (4) does not apply to a project for which a project plan was validated before the protocol or guideline comes into effect.
- (7) If the director has provided public notice under subsection (5) with respect to a protocol, but the protocol is not yet in force,
 - (a) a proponent may comply with the protocol as though it is in force, and
 - (b) subsection (3) applies with respect to the proponent's project as though the protocol is in force.

Recognition of emission offsets

- 8 A greenhouse gas reduction is recognized as an equivalent amount of emission offsets for the purposes of the Act if
 - (a) the greenhouse gas reduction is equal to the project reduction in a project report verified in accordance with this regulation,
 - (b) the proponent of the project has transferred any title the proponent has in the greenhouse gas reduction to the Pacific Carbon Trust, and
 - (c) the greenhouse gas reduction has not previously been

recognized as an emission offset under the Act or another emission-offset recognition scheme or for the purposes of another voluntary or mandatory greenhouse gas reduction program.

Records

- 9 (1) A proponent must retain, in both paper and electronic form, its project plan and project report for not less than ten years after the date of either its validation or verification, whichever is applicable.
- (2) A proponent, on the request of the director, must provide to the director a copy of the proponent's
- (a) project plan,
 - (b) project report, or
 - (c) records referred to in section 3 (3) (b) (i) or (iii)
- within 60 days of the date of the request.

Qualified professionals

- 10 The director may request evidence of a person's qualifications to act as a qualified professional for the purposes of this regulation and may determine that the person is not qualified to perform the functions of a qualified professional if the director is not satisfied that the person possesses the necessary qualifications.

Amendment

- 11 ***Effective on July 1, 2010,***

(a) section 1 (1) is amended by repealing the definitions of "qualified professional" and "validation body" and "verification body" and substituting the following:

"validation body" and verification body mean a body accredited, in accordance with ISO 14065, by a member of the International Accreditation Forum to use ISO 14064-3; , and

(b) section 10 is repealed.

Transition

- 12 If a public sector organization has an agreement in place with the Pacific Carbon Trust for application on behalf of the public sector organization of a greenhouse gas reduction to be verified in accordance with section 6 by December 31, 2012, the proposed greenhouse gas reduction is recognized as an emission offset for the purposes of offsetting the public sector organization's PSO greenhouse gas emissions for the 2008, 2009, 2010 and 2011 calendar years to the extent that

- (a) the Pacific Carbon Trust has in place contracts with one or more proponents to deliver emission offsets from identified projects, and
- (b) the identified projects have validated project plans.

[Provisions of the *Greenhouse Gas Reduction Targets Act*, S.B.C. 2007, c. 42, relevant to the enactment of this regulation: section 12]