

Legal update

Alberta limits the use of carbon credits and requires quarterly reporting for very large emitters

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Energy

Environmental

Alberta recently announced that for the 2018 compliance year under the *Specified Gas Emitters Regulation* (SGER) it will limit the use of carbon credits to 30% of a regulated entity's compliance obligations. It will also require regulated entities that emit more than 1 million tonnes of greenhouse gases (GHGs) per year to prepare and file quarterly reports on their GHG emissions.

The SGER regulates GHG emissions from facilities in Alberta that have emitted 100,000 tonnes and more of GHGs in 2003 or any subsequent year. It requires reductions in the facility's emission intensity (i.e., the quantity of GHG emissions per unit of production) from an emissions intensity baseline established under the SGER and approved by Alberta Environment and Parks (AEP). For a facility regulated by the SGER that has had eight years of commercial operations, an emissions intensity reduction of 20% from its baseline is required.

There are three ways for a facility to meet its emissions intensity reduction target under the SGER: (i) improve operational efficiencies in terms of GHG emissions, with excess improvements over the required 20% reduction generating emission performance credits (EPCs), which can be banked for use in subsequent compliance periods or traded with other facilities; (ii) purchase and then retire Alberta-based and AEP-approved carbon offset credits and/or EPCs; or (iii) make payments at a rate of \$30 per tonne of GHGs to a technology fund administered by Emission Reductions Alberta established under the *Climate Change and Emissions Management Act*.

No offset credits were used in 2015

Historically, about 40% of all compliance obligations of facilities regulated by SGER were met by retiring EPCs or offsets, with the balance mostly being made by payments to the technology fund. However, starting in the 2012 compliance year, fewer offset credits or EPCs have been used to meet compliance obligations and payments to the technology fund have increased. For instance, industry used 3 million tonnes of offset credits for compliance purposes in 2012 but none in 2015. In 2012, the technology fund received \$93.5 million in payments by emitters, but this increased to \$135.6 million in 2015.

The change in the compliance behaviour is not surprising as most offset credits trade at slightly below the technology fund price. Hence, EPCs and offset credits obtained when the technology fund price was \$15 per tonne were likely acquired for a little less than \$15 per tonne. When AEP announced in June 2015 price increases to \$30 per tonne for 2017 for payments to the technology fund, facilities realized that those EPCs and offset credits they had bought for a little under \$15 per tonne should be saved for the day when they could be used to satisfy a \$30 per tonne compliance obligation. Meanwhile, compliance obligations have increasingly been met by payments to the technology fund.

32 million credits have been banked

AEP has to approve the creation of offset credits and EPCs. It has advised that approximately 32 million offset credits and EPCs it has approved are presently being banked by industry for use in future compliance years. Presumably, there are also more offset credits and EPCs that have yet to be submitted to AEP for approval or are waiting for approval by AEP. Assuming these 32 million credits are tradable at or slightly below the technology fund payment price of \$30 per tonne, the current estimated value of all the credits banked by industry is approximately slightly less than \$960 million.

It is expected many regulated facilities will commence using their banked offset credits and EPCs for the 2017 and 2018 compliance years.

AEP is concerned about market volatility and has announced that commencing in 2018 an SGER-regulated facility must limit the number of credits it retires in meeting its compliance obligations to 30%, with the balance coming from performance improvements or payments to the technology fund. AEP has made it clear, however, that notwithstanding the 30% limit, existing and future EPCs and offset credits will not expire.

Quarterly reporting for 1 million tonne-plus emitters

AEP has also announced that commencing in the 2018 compliance year SGER-regulated facilities that emit over 1 million tonnes of GHGs per year must prepare and file with AEP quarterly reports, together with an annual tune-up by March 31 of the following year. In 2015 there were 26 facilities in Alberta that emitted 1 million tonnes or more of GHGs.

AEP says the purpose of the new requirement is to provide it with better data to be used in forecasting and budgeting. AEP also believes that many facilities already undertake internal quarterly reporting and have suggested that sharing such reporting with AEP will not be that onerous.

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