
Draft Regulations

Draft regulation

Environment Quality Act
(chapter Q-2)

An Act mainly to ensure effective governance of the fight against climate change and to promote electrification (2020, chapter 19)

Cap-and-trade system for greenhouse gas emission allowances — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the draft Regulation to amend the Regulation respecting a cap-and-trade system for greenhouse gas emission allowances, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation changes the regulatory framework for offset credits to reflect the draft Regulation respecting landfill methane reclamation and destruction projects eligible for the issuance of offset credits and the draft Regulation respecting halocarbon destruction projects eligible for the issuance of offset credits, published in the *Gazette officielle du Québec* of 3 March 2021. It repeals the current provisions for determining the projects eligible for offset credits, the provisions setting the conditions and methods applicable to such projects, and the provisions governing the information and documents that must be kept by the promoter or submitted to the Minister and that may be published by the Minister. All these provisions will now be included in the other regulations referred to above. The draft Regulation defines the rules governing the issue of offset credits by the Minister.

In addition, the draft Regulation amends the rules applicable to the replacement and cancellation of illegitimate offset credits.

The draft Regulation removes the exclusion for the biomass and biomass fuel component of fuels distributed by emitters when calculating the threshold that renders

fuel distributors subject to the Regulation, and refers to Protocol QC.30 of the Regulation respecting mandatory reporting of certain emissions of contaminants into the atmosphere (chapter Q-2, r. 15).

Lastly, the draft Regulation makes the necessary adjustments to the monetary administrative sanctions that apply to contraventions of the Regulation and to the penal sanctions that apply to offences, along with certain transitional provisions and certain technical adjustments required.

The analysis of the regulatory impact of the draft Regulation shows that new fuel distributors will be subject to the Regulation respecting a cap-and-trade system for greenhouse gas emission allowances (chapter Q-2, r. 46.1), they will have to register for the system and have their greenhouse gas emissions report verified. All such enterprises will experience an impact of \$597 in order to comply with the Regulation, in addition to an annual verification cost of \$18,780.

Further information on the draft Regulation may be obtained from Pierre Bouchard, Coordinator, Direction du marché du carbone, Direction générale de la réglementation carbone et des données d'émission, Ministère de l'Environnement et de la Lutte contre les changements climatiques, Édifice Marie-Guyart, 675, boulevard René-Lévesque Est, boîte 30, Québec (Québec) G1R 5V7; email: pierre.bouchard@environnement.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Kim Ricard, Associate Director for Market Operations, Direction du marché du carbone, Direction générale de la réglementation carbone et des données d'émission, Ministère de l'Environnement et de la Lutte contre les changements climatiques, Édifice Marie-Guyart, 675, boulevard René-Lévesque Est, boîte 31, Québec (Québec) G1R 5V7; email: kim.ricard@environnement.gouv.qc.ca.

BENOIT CHARETTE,
*Minister of the Environment and
the Fight Against Climate Change*

Regulation to amend the Regulation respecting a cap-and-trade system for greenhouse gas emission allowances

Environment Quality Act
(chapter Q-2, ss. 46.1, 46.5, 46.6, 46.8, 46.12, 46.15, 115.27 and 115.34)

An Act mainly to ensure effective governance of the fight against climate change and to promote electrification
(2020, chapter 19, s. 20)

1. The Regulation respecting a cap-and-trade system for greenhouse gas emission allowances (chapter Q-2, r. 46.1) is amended in section 2 by replacing subparagraph 2 of the second paragraph by the following:

“(2) distributes 200 litres or more of fuel within the meaning of protocol QC.30 of Schedule A.2 to the Regulation respecting mandatory reporting of certain emissions of contaminants into the atmosphere (chapter Q-2, r. 15), except fuel for which an emitter referred to in the first paragraph or in subparagraph 3 of the second paragraph of this section or in section 2.1, including the emitter itself if applicable, is required to cover its emissions pursuant to section 19 for an emitter referred to in this section and pursuant to section 19.0.1 for an emitter referred to in section 2.1;”

2. Section 3 is amended by replacing “who implements an offset credit project” in paragraph 12.1 by “or municipality responsible for the implementation of a project eligible for the issuance of offset credits”.

3. Section 6 is amended by replacing “70.21” in paragraph 6 by “70.5”.

4. Sections 70.1 to 70.22 are replaced by the following:

“**70.1.** For the purposes of this Chapter,

(1) “eligibility period” means the period, set in the regulation made by the Minister that is applicable to the project, during which a project is eligible for the issuance of offset credits, subject to compliance with the eligibility conditions in effect when the project notice or renewal notice provided for in the regulation is filed;

(2) “reporting period” means a continuous period of time, within an eligibility period, during which reductions in GHG emissions or offset credits corresponding to removals of GHG from the atmosphere attributable to a project eligible for the issuance of offset credits are quantified pursuant to the regulation made by the Minister that is applicable to that project for the issuance of offset credits;

(3) “regulation made by the Minister” means a regulation made pursuant to section 46.8.2 of the Environment Quality Act, inserted by section 21 of the Act mainly to ensure effective governance of the fight against climate change and to promote electrification (2020, chapter 19).

In addition, for the purposes of this Chapter and of the Regulation respecting halocarbon destruction projects eligible for the issuance of offset credits (*insert the reference to the Compilation of Québec Laws and Regulations*), chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs) are greenhouse gases.

70.2. A promoter must file with the Minister an issuance request for offset credits for the first reporting period for a project, established in accordance with the regulation made by the Minister that is applicable to the project not later than 6 months following the end of that period.

The promoter may then file with the Minister an issuance request for offset credits for up to three continuous reporting periods included within the same eligibility period. The application must be filed not later than 6 months following the end of the last reporting period covered by the application.

When the eligibility period for a project is renewed, the promoter must file with the Minister an issuance request for the first reporting period in the new eligibility period, established in accordance with the regulation made by the Minister that is applicable to the project, not later than 6 months after the end of that reporting period. The second paragraph applies to subsequent applications for the issuance of offset credits.

Where a regulation made by the Minister that is applicable to a project allows the aggregation of projects and the promoter avails itself of that aggregation, any application for the issuance of offset credits must cover all the projects included in the aggregation for which the promoter is applying for offset credits.

70.3. Every issuance request for offset credits must include the following information:

(1) the information needed to identify the promoter and the promoter’s representative, if any;

(2) the code assigned to the project by the Minister in accordance with the regulation made by the Minister that is applicable to it;

(3) the start and end dates of each reporting period covered by the application;

(4) the quantity of offset credits covered by the application.

In addition, every issuance request must include the following documents:

(1) a project report for each reporting period covered by the application, consistent with the regulation made by the Minister that is applicable to the project;

(2) a verification report on the project report or reports, consistent with the regulation made by the Minister that is applicable to the project and produced by a person qualified for that purpose within the meaning of the regulation.

70.4. The Minister, after receiving an issuance request accompanied by a verification report that includes a positive or qualified positive verification opinion, issues, as the case may be, an offset credit for each metric tonne CO₂ equivalent of reduction in GHG emissions attributable to the project, quantified in accordance with the regulation made by the Minister that is applicable to the project, or offset credits corresponding to removals of GHG from the atmosphere attributable to the project, quantified in accordance with the regulation made by the Minister that is applicable to the project.

The Minister places 97% of the offset credits, rounded down to the nearest whole number, into the promoter's general account.

The remaining offset credits are placed into the Minister's environmental integrity account.

Despite the first paragraph, the Minister cannot issue offset credits after noting errors, omissions, inaccuracies or false information in a project report submitted with an issuance request or a failure to comply with a condition in the regulation made by the Minister that is applicable to the project.

70.5. The Minister may require the promoter to replace any offset credit issued for a project under the second paragraph of section 70.4 in the following cases:

(1) where, because of errors, omissions, inaccuracies or false information in the information or documents provided by the promoter or a failure to comply with a condition in the regulation made by the Minister that is applicable to the project, the reductions in GHG emissions or the offset credits corresponding to removals of GHG from the atmosphere attributable to the project were not quantified in accordance with the regulation made by the Minister that is applicable to the project;

(2) where the project was not carried out in accordance with the regulation made by the Minister that is applicable to the project;

(3) where a reduction in GHG emissions or a removal of GHG from the atmosphere for which offset credits are issued pursuant to this regulation has already been credited under another program for the reduction of GHG emissions or the removal of GHGs from the atmosphere.

The Minister notifies the promoter who must, within 3 months of receiving the notification, place in its general account one emission allowance for each illegitimate offset credit that must be replaced.

The Minister, after being notified that the promoter has placed the offset credits in the general account, deducts the replacement emission allowances designated by the promoter and places them in the invalidation account to be extinguished. The Minister also transfers the number of offset credits placed into the environmental integrity account for the project under third paragraph of section 70.4, in proportion to the number of offset credits replaced by the promoter, into the invalidation account to be extinguished.

Without prejudice to the Minister's other recourses against the promoter, if the promoter has failed to surrender the replacement emission allowances on the expiry of the 3-month period, the Minister replaces the illegitimate offset credits by withdrawing an equivalent number of offset credits from the environmental integrity account and placing them in the invalidation account to be extinguished.

No offset credit may be issued to the promoter for the project unless the promoter has replaced the illegitimate offset credits within the time limit provided for in the second paragraph of this section.

70.6. If a partner entity cancels offset credits held in the account of an emitter or a participant registered pursuant to this Regulation, the Minister notifies the emitter or participant of his intention to cancel the offset credits, in accordance with the second paragraph of section 46.12 of the Environment Quality Act (chapter Q-2). After the offset credits concerned have been cancelled, they are transferred into the Minister's invalidation account to be surrendered to the partner entity.

If a partner entity cancels offset credits that were used for emitter compliance purposes, the Minister notifies the emitter, who must, within 6 months after receiving the notice, replace the cancelled offset credits by placing

an equivalent number of emission allowances in its compliance account. The emission allowances are deducted in the order prescribed in section 21 and placed in the Minister's retirement account to be extinguished. The cancelled offset credits recorded in the Minister's retirement account are transferred into the Minister's invalidation account to be surrendered to the partner entity.

If the emission allowances required under the second paragraph are not placed by the emitter within the prescribed time, the provisions of sections 22 and 23 apply, with the necessary modifications, and the year of issue of the emission allowances is not taken into account.

70.7. If a partner entity cancels offset credits that were used by a promoter to replace illegitimate offset credits in accordance with section 70.5, the Minister notifies the promoter, who must, within 3 months after receiving the notice, place in its general account one emission allowance for each cancelled offset credit that must be replaced. Such emission allowances are placed in the Minister's invalidation account to be extinguished and the cancelled offset credits are surrendered to the partner entity.

No offset credit may be issued for a project for which illegitimate offset credits have been replaced in accordance with section 70.5 to a promoter who has not replaced the offset credits within the time prescribed in the first paragraph of this section.

70.8. Any change to the information and documents provided in accordance with this Chapter must be communicated to the Minister within 30 days.”

5. Section 71 is amended by replacing “70.5 or 70.13, the first and second paragraphs of section 70.13.1, section 70.14, the first, third or fifth paragraph of section 70.15 or section 70.22” in paragraph 1 by “70.2, 70.3 or 70.8”.

6. Section 72 is amended by replacing “the second or third paragraph of section 50 or 70.12, or the second paragraph of section 70.15” by “or the second or third paragraph of section 50”.

7. Section 73 is amended by replacing “or the second paragraph of section 70.21 or 70.21.1;” in paragraph 1 by “, the second paragraph of section 70.5 or 70.6 or the first paragraph of section 70.7”.

8. Section 74 is amended by replacing “, section 53, 62, 70.5, 70.13 or 70.14, the first, third or fifth paragraph of section 70.15 or section 70.22” in the portion before subparagraph 1 of the first paragraph by “or section 53, 62, 70.3 or 70.8”.

9. Section 75 is amended by replacing “, the second or third paragraph of section 50 or 70.12 or the second paragraph of section 70.15” in the portion before paragraph 1 by “or the second or third paragraph of section 50”.

10. Section 75.1 is amended by replacing “70.21” in the portion before paragraph 1 by “70.5”.

11. Section 75.4 is amended by replacing “or the second paragraph of section 70.21.1” by “, the second paragraph of section 70.6 or the first paragraph of section 70.7”.

12. A person or municipality that distributes 200 litres or more of fuel within the meaning of protocol QC.30 of Schedule A.2 to the Regulation respecting mandatory reporting of certain emissions of contaminants into the atmosphere (chapter Q-2, r. 15) must take into account the biomass and biomass fuel component of the fuel for the purposes of subparagraph 2 of the second paragraph of section 2 of the Regulation respecting a cap-and-trade system for greenhouse gas emission allowances (chapter Q-2, r. 46.1) as amended by section 1 of this Regulation, starting from the compliance period beginning on 1 January 2021.

13. Despite the provisions of this Regulation, for the purposes of protocols 1, 4 and 5 of Schedule D of the Regulation respecting a cap-and-trade system for greenhouse gas emission allowances (chapter Q-2, r. 46.1), the provisions of section 70.13.1, section 70.14 insofar as it provides that an issuance request for offset credits must be submitted with a project report covering the most recent issuance period, and sections 70.20, 70.21, 70.22, 71, 73, 74, 75.1, 75.2 and 75.4 of the said Regulation, as they read on (*insert the date preceding the date of coming into force of this Regulation*), continue to apply to the projects to which those protocols apply until they are replaced. The provisions of sections 70.6 and 70.7, as they read on (*insert the date of coming into force of this Regulation*), also apply to projects to which those protocols apply, replacing “70.5” in section 70.7 by “70.21”.

14. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

104898