

OVERVIEW

Output-based Pricing System
Regulations Under The
*Greenhouse Gas Pollution
Pricing Act*



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Where there are any inconsistencies between this Overview, the *Greenhouse Gas Pollution Pricing Act* (GGPPA) and/or the *Output-Based Pricing System Regulations* (OBPS Regulations) the following shall prevail: the GGPPA enacted by section 186 of chapter 12 of the Statutes of Canada, 2018, in force on assent June 21, 2018 and the OBPS Regulations, as registered by the Clerk of the Privy Council and published in the *Canada Gazette*, Part II, on July 10, 2019.

The [Output-Based Pricing System Regulations \(OBPS Regulations\)](#) made under the [Greenhouse Gas Pollution Pricing Act](#) (GGPPA) establish the Output-Based Pricing System (OBPS).

The objective of the Regulations is to retain a price on carbon pollution that creates an incentive for emissions-intensive and trade-exposed facilities to reduce emissions per unit of output, while mitigating the risk of decreased domestic production and of carbon leakage to other jurisdictions. The [OBPS Regulations Regulatory Impact Analysis Statement](#) provides further information.

Under the OBPS, persons responsible for covered facilities (persons responsible) are required to compensate for greenhouse gas (GHG) emissions that exceed an annual facility emissions limit. In accordance with the GGPPA and OBPS Regulations, the Minister of the Environment (the Minister) will issue surplus credits to persons responsible for covered facilities that emit GHGs in a quantity that is below the facility's emissions limit. This creates an ongoing financial incentive for facilities to reduce their emission intensity.

This document provides an overview and highlights key sections of the OBPS Regulations. Persons responsible under the OBPS are advised to become familiar with the GGPPA and the OBPS Regulations in their entirety to ensure a full understanding of legal obligations.

Who is subject to the OBPS Regulations?

The OBPS Regulations apply to persons responsible, as defined in section 10 of those regulations.

According to section 169 of the GGPPA, covered facilities are those facilities located in provinces and territories listed on Part 2 of Schedule 1 to the GGPPA that meet the criteria listed in section 8 of the OBPS Regulations. Specifically:

- a report having been made in accordance with a *Notice with respect to reporting of greenhouse gases (GHGs)* published under section 46 of the *Canadian Environmental Protection Act, 1999* in respect of that facility indicating that the facility emitted a quantity of GHGs equal to 50 kilotonnes (kt) or more of carbon dioxide equivalent (CO₂e), as one or more facilities (as defined in that Notice) for the 2014 calendar year or any subsequent calendar year; and
- the primary activity engaged in at the facility is an industrial activity listed in column 1 of Schedule 1 to the OBPS Regulations. If the facility is in Saskatchewan, the primary activity engaged in at the facility is an industrial activity as set out in item 5 or 38, column 1, of Schedule 1, namely, the transmission of processed natural gas or the generation of electricity using fossil fuels.

Covered facilities are also those that have been designated (“opt-in”) as a covered facility under section 172 of the GGPPA. For more information on “opting-in”, refer to the [Policy Regarding Voluntary Participation in the Output-Based Pricing System](#).

Section 6 of the OBPS Regulations specifies the circumstances under which the designation as a covered facility may be cancelled by the Minister. The Voluntary Participation Policy referenced above provides further information. Section 7 of the OBPS Regulations identifies the circumstances under which a facility could cease to be a covered facility with related requirements.

What are compliance periods?

A compliance period is a period of time, generally a calendar year, to which quantification, reporting and compensation obligations relate. A person responsible is required to quantify the GHG emissions during a compliance period, report on those emissions and production and compensate for excess emissions from that compliance period.

A compliance period would generally start on January 1 of a given year and generally end on December 31 of that year. The first compliance period for facilities that met the criteria of the *Notice Establishing Criteria Respecting Facilities and Persons and Publishing Measures* started on January 1, 2019 and ends December 31, 2019, except in Yukon and Nunavut, where it started on July 1, 2019 and ends on December 31, 2019.

The first compliance period for facilities that become covered facilities part way through a calendar year, starts after becoming a covered facility on the effective date of registration as an emitter with the Canada Revenue Agency (CRA) or, if located in Prince Edward Island, on the date of registration as a covered facility under the GGPPA.

For more information about compliance periods, refer to section 9 of the OBPS Regulations.

What is the facility GHG emissions limit?

The GHG emissions limit for a covered facility must be determined in accordance with sections 36 to 43 of the OBPS Regulations for each compliance year. The GHG emissions limit is based on the facility’s production from specified industrial activities, as defined under subsection 2(1) of the OBPS Regulations, and the output-based standard applicable to those activities.

Column 3 of Schedule 1 identifies the output-based standards for many of the industrial activities listed in that Schedule and specifies the industrial activities for which the output-based standard must be calculated in accordance with section 37 to 40 of the OBPS Regulations. An output-based standard will also need to be calculated by covered facilities engaged in an industrial activity that is not listed in Schedule 1 of the OBPS Regulations.

How are GHGs quantified?

The quantity of GHGs that are emitted from a covered facility during a compliance period must be determined in accordance with section 35 of the OBPS Regulations. The total quantity of GHGs from a covered facility is determined, where applicable, as per sections 16 to 25 of the OBPS Regulations.

Persons responsible must quantify all GHGs from the covered facility from all the specified emission types identified in subsection 5(1) of the OBPS Regulations:

- For industrial activities listed in Schedule 1, column 4 of Schedule 1 to the OBPS Regulations identifies the applicable Part of Schedule 3 to the OBPS Regulations for which the quantification methods apply;
- For an industrial activity listed in Schedule 1 for which there is no quantification method for a GHG or a specified emission type in the applicable Part of Schedule 3, the quantification methods are identified in paragraphs 17(2)(b) or 20(2)(c) of the OBPS Regulations;
- For industrial activities not listed in Schedule 1, the quantification methods are identified in paragraph 17(2)(c) of the OBPS Regulations.
- For a facility referred to in paragraph 5(2)(c) of the OBPS Regulations, the quantification methods are identified in section 19 of the OBPS Regulations.

For compliance periods starting in 2020, and in accordance with sections 26 to 30 of the OBPS Regulations, persons responsible can apply to obtain a permit to use an alternative GHG quantification method or guideline for quantifying emissions. Schedule 4 of the OBPS Regulations sets out the information required to make an application. Any permit issued by the Minister is valid for a maximum of 24 months and can be renewed once. For 2019, the alternative method provision is in section 8 of the [*Greenhouse Gas Emissions Information Production Order, SOR/2018-214*](#) (Information Order, SOR/2018-214) applies.

For covered facilities engaged in the generation of electricity using fossil fuels as an additional activity, GHGs from that activity are quantified, as per section 18 of the OBPS Regulations, in accordance with the requirements of the Part of Schedule 3 to the OBPS Regulations that is applicable to any other industrial activity engaged in at the facility.

How is production to be quantified?

Production for each specified industrial activity, as defined under subsection 2(1) of the OBPS Regulations, must be quantified in accordance with sections 16, 31 to 33 and Schedule 3 to the OBPS Regulations for each compliance period. Column 2 of Schedule 1 to the OBPS Regulations identifies the unit for measuring the production resulting from industrial activities listed in that Schedule. For activities not listed in Schedule 1 to the OBPS Regulations, production must be quantified in the unit of measurement identified in the request made under subsection 172(1) of the GGPPA.

For covered facilities engaged in the generation of electricity using fossil fuels as an additional activity, the quantity of gross electricity generated must be quantified in gigawatt hours (GWh), in whole or in part, in accordance with paragraph 31(1)(b) and sections 6 and 7 of Part 38 of Schedule 3 to the OBPS Regulations.

The additional content referred to in section 12 of the OBPS Regulations must be quantified, specifically the sales and purchases of thermal energy, the production and sales of hydrogen gas and the production of gypsum products. Refer to section 12 of the OBPS Regulations for more information.

What are the reporting and verification requirements and deadlines?

Section 173 of the GGPPA requires persons responsible to submit a report to the Minister for each compliance period that sets out information specified in the OBPS Regulations.

Each annual report must include the information outlined in sections 11 and 12, and Schedule 2 of the OBPS Regulations. Annual reports must also be accompanied by a verification report. Verification requirements, including the use of an accredited verification body and the content of the verification report, are found in sections 49 to 52, and Schedule 5 of the OBPS Regulations.

Section 13 of the OBPS Regulations states that annual reports accompanied by verification reports are due June 1st of the year following the compliance period for which the annual report is prepared.

Pursuant to sub-section 53(1) of the OBPS Regulations the Minister can intervene in certain circumstances to establish the emissions limit or determine the GHGs emitted from the covered facility. Specifically, where a person responsible for a covered facility submits an annual report or corrected report that contains a material discrepancy; or the verification statement referred to in paragraph 3(n) of Schedule 5 of the OBPS Regulations indicates that it is impossible to determine that a material discrepancy does not exist, or that the annual report or corrected report was prepared in accordance with these Regulations.

For further information on material discrepancy, refer to the document “Guidance on third-party verification under the Output-Based Pricing System Regulations” distributed as a companion to this Overview.

Sub-section 53(2) of the OBPS Regulations outlines the sources of information for the Minister to use in establishing the emissions limit or determining the quantity of GHGs emitted from the covered facility for the compliance period.

How do I receive surplus credits or remit compensation?

In accordance with section 44 of the OBPS Regulations, the person responsible must assess the quantity of GHGs emitted during the applicable compliance period, as determined under section 35 of the OBPS Regulations, against its applicable GHG emissions limit, determined in accordance with sections 36, 36.1, 36.2, 41, 41.1, 41.2 or 42 of the OBPS Regulations.

As per section 175 of the GGPPA and section 59 of the OBPS Regulations, the person responsible will receive surplus credits when the result of the assessment under section 44 of those Regulations is negative for the quantity of GHGs calculated in that assessment. The issuance of surplus credits will only occur when the annual report does not contain material discrepancies in relation to the total quantity of GHGs and the production.

As per section 174 of the GGPPA and sections 54 to 58, 70 and 71 of the OBPS Regulations, when the result of the assessment under section 44 of those Regulations is positive, the person responsible must provide compensation for each CO₂e tonne emitted above the GHG emissions limit.

The methods for providing compensation are one of the following or a combination of both:

- a) making an excess emissions charge payment electronically to the Receiver General for Canada; and
- b) remitting compliance units, namely surplus credits, offset credits, or recognized units (for certain provincial offset credits).

ECCC is developing a federal GHG Offset System to encourage cost-effective domestic GHG emissions reductions from activities not covered by carbon pollution pricing. The department is carefully reviewing comments received from June through August 2019 on its paper: [Carbon pollution pricing: options for a Federal Greenhouse Gas Offset System](#) with the intent of drafting a regulation.

A unit or credit is a recognized unit if it is issued by a province or territory, or by a program authority, under a GHG offset protocol and offset program included in a list published on ECCC's website.

Section 181 of the GGPPA and sections 72 to 75 of the OBPS Regulations identify the circumstances under which compliance units could be suspended, revoked or require replacement as well as the requirements for doing so.

What are the compensation deadlines and rates?

According to subsection 57(1) of the OBPS Regulations, the regular-rate compensation deadline is December 15 of the calendar year in which the related annual report must be submitted. If compensation is provided on or before December 15 of the year in which the annual report for a compliance period must be submitted, and as provided under subsection 174(3) of the GGPPA, compensation due per CO₂e tonne of excess emissions is one compliance unit, or the excess emission charge rate applicable to the compliance period (excess emission charge is set out in column 2 of Schedule 4 to the Act).

Subsection 57(2) of the OBPS Regulations indicates that the increased-rate compensation (4:1) deadline is February 15 of the calendar year following the deadline under subsection 57(1). If provided after December 15 of that year but before February 15 of the following year, compensation due for each CO₂e tonne of excess emissions is four compliance units or four times the excess emission charge rate applicable to the compliance period.

What are “transitional provisions”?

The Information Order (SOR/2018-214), published in the *Canada Gazette*, Part II, in fall 2018 set out quantification, reporting, and verification requirements to ensure OBPS covered facilities began collecting the necessary information starting on January 1, 2019 (July 1, 2019 in Yukon and Nunavut), that will be required to assess compliance under the OBPS. The quantification, reporting, and verification requirements of the OBPS Regulations are aligned, with minor modifications, with those of the Information Order. The OBPS Regulations contain transitional provisions for the 2019 compliance period to ensure that covered facilities that complied with the Information Order are deemed to have complied with the quantification and recording requirements of the those Regulations.

Section 80 of the OBPS Regulations states the transitional rules regarding alternative GHG quantification methods, section 81 states the transitional rules regarding record keeping, and sections 79 and 82 to 85.1 state the transitional rules regarding specific industrial activities.

How do new covered facilities need to comply with the OBPS Regulations?

Certain requirements of the OBPS Regulations do not apply to certain covered facilities that have not completed two calendar years of production following the date of first production. Please refer to subsection 11(2), section 43 and subsections 44(2) to (5) of the OBPS Regulations for more information.

What are the notification and record-keeping requirements?

Paragraph 48(c) of the OBPS Regulations indicates that the Minister must be notified within 30 days of any changes to the information provided to register the facility. Notification can be provided to the Minister by completing a Notice of Change in the OBPS Registration module in the Single Window Information Management System (SWIM). Please refer to the [OBPS Registration Application Guidance](#) for information on completing a Notice of Change or contact the Operations office at the number below. Subsections 45(1) and (2) of the OBPS Regulations provide a detailed list of the records that a person responsible must keep.

Records must be kept within 30 days after the information becomes available. All records must be retained at the principal place of business in Canada of the person responsible. If the records are moved, the Minister must be notified in writing, within 30 days of the new location in Canada where they can be inspected (subsection 47(3) of the OBPS Regulations). As per subsection 187(5) of the GGPPA, records must be retained for seven years after the year to which they relate.

Confidentiality requests

Section 254 of the GGPPA and section 15 of the OBPS Regulations provide that a person responsible may request, with supporting justification, that the Minister treat as confidential some of the information provided under Part 2 of the GGPPA that is not, and has never been, available to the public. Requests must clearly identify the information to which the request pertains and provide one or more of the legislated reasons: trade secret; likelihood of financial loss or prejudice to competitive position; interference with contractual or other negotiations.

If the Minister accepts the confidentiality request, Subsection 255(3) of the GGPPA establishes obligations for the Minister to not disclose the information, or only disclose it in prescribed circumstances. Contact the Operations Office (see below) for further information.

How can I learn more?

Refer to the [OBPS Website](#) for further information on the [GGPPA](#), the [OBPS Regulations](#); and related policy and guidance. For questions or comments on the federal OBPS, including on [registration](#) please email Carbon Markets Bureau, Operations Office at ec.stfr-obps.ec@canada.ca or call 1-833-849-9160.

Output-Based Pricing System Regulations - General Overview of Initial Compliance Timelines

