

29 July 2016  
National Treasury

Dear Mr Morden,

**Promethium Carbon comments on the  
Draft Regulations: Carbon Offsets  
in Terms of Clause 20(B) of the  
Draft Carbon Tax Bill, 2015**

Please find our comments on the Draft Carbon Offset Regulations published on 20 June 2016 attached hereto.

If you have any questions, please do not hesitate to contact us.

Yours faithfully,



RT Louw  
Director  
Promethium Carbon

# Promethium Carbon comments on the Draft Carbon Offset Regulations published 20 June 2016

This document contains Promethium Carbon's comments on the Draft Carbon Offset Regulations published on 20 June 2016.

## 1 MOTIVATION FOR SUBMITTING COMMENTS TO THE POLICY PAPER

Promethium Carbon<sup>1</sup> is a leading South African supplier of GHG reduction and carbon services to both the private and public sectors. The company has been involved in the development of the South African low carbon economy over the last decade. We have a good understanding of a number of issues that are relevant to the proposed carbon tax. These include global carbon pricing developments, emission reduction potential and the development of emission reduction plans, as well as the impact carbon pricing will have on a variety of businesses in the South African economy. This comment paper is submitted as our contribution to the development of a low carbon economy in South Africa. It is our own position on the matter and does not represent the views of any of our clients either in the private or public sectors.

## 2 HIGH LEVEL/ OVERARCHING COMMENTS

Promethium Carbon supports the use of Carbon Offsets to mitigate the tax liability of greenhouse gas emitters. However, in order to ensure the support of the proposed Carbon Tax Offset regulations it is vital to create a common understanding of all aspects pertaining to the regulations. This includes ensuring consistent definitions are used to articulate the components and functionality of the carbon offsets. In addition, the proposed Carbon Offset Administration system which is currently being finalised, should be used to inform the regulations where necessary in order to align the regulations with proposed role, function and information technology structures of the Carbon Offset Administrator. This will greatly support implementation from a policy as well as an operational perspective.

## 3 DEFINITIONS

- Approved Project<sup>2</sup> – An approved project is a project for which an Extended Letter of Approval has been issued

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<sup>1</sup> [www.promethium.co.za](http://www.promethium.co.za)

- Definition required for “Extended Letter of Approval (ELoA)” as being the document received by a project owner that confirms that the project conforms to the requirements to provide offsets against the SA carbon tax.
- Definition required for “Approved Standards” as being either the CDM, VCS, GS or another standard approved by the Minister of Energy or a delegated authority.
- Definition required for “Registered Project” as a project registered under the CDM, VCS or GS
- Definition required for “Eligible projects” as projects that meet SA eligibility criteria
- **“Gold Standard Project”**
  - Should say “project registered under the Gold Standard” and not “project that complies with”
- **“Offset”**
  - Description is not sufficient. An offset only comes into existence when it is issued by an Approved Standard.
  - Definition of **“Offset”** should state that offsets must be issued by an Approved Standard
  - Definition required for **“Issued Offset Credits”** as being offset credits that have been issued by an Approved Standard
  - Definition required for **“Listed Offset Credits”** as being offset credits that have been listed in the South African registry
- **“CDM Project”**
  - A project can only be registered as described in subsection (a) if a LoA as described in subsection (b) has been issued. Subsection (b) is therefore not required
- **“VCS Project”**
  - A project is a VCS project if it has been registered by the VCS. This is true even if the credits have not yet been issued – the statement “in respect of which a verified carbon unit is issued” is therefore not correct.
- **“Verified Carbon Unit”**
  - The definition does not refer to the issuance of the offset credit – an offset only comes in existence when it is issued, and not when the CO<sub>2</sub> is removed from the atmosphere. The definition must refer to Issuance.
    - The Verified Carbon Units (VCUs) are only issued by the VCS, therefore:
    - Definition required for **“Certified Emission Reduction (CER)”** as being emission reduction units issued by the CDM. Not that CERs are the only permanent offset credits issued in the CDM and that temporary CERs (tCER) and long term CERs (lCERs) are not allowed in the SA system.

- Definition required for “*Gold Standard Voluntary Emission Reductions (VERs)*” as being emission reduction units issued by the Gold Standard
- **Additional Definitions required:**
  - “*Registration*” as being the action according to which a project is entered into the project database of an Approved Standard after a successful audit in terms of the regulations of the standard
  - “*Issuance*” as being the action according to which offset credits from a registered project operated during a valid crediting period is entered into the credits database of an Approved Standard after a successful audit in terms of the regulations of the standard
  - “*Listing*” as being the action according to which issued credits from an Approved Standard is cancelled in the registry of origin and listed in the South African registry
  - “*Crediting period*” as being the period during which a registered project can generate emission reduction eligible for issuance as credits in terms of the rules of the Approved Standard
  - “*Date of registration*” as being the date on which an offset project is registered in the registry of the Approved Standard
  - “*Date of issuance*” as being the date on which offset credits are issued by the Approved Standard into its own registry
  - “*Date of Listing*” as being the date on which credits are listed in the South African system
  - “*Retirement*” as being the utilisation of a Listed offset credit by a tax payer to mitigate his tax liability

## 4 SECTION 2 – ELIGIBILITY

### Terminology/Definitions

- The words “that is carried on” is unclear as it can refer to any of the following: the project being registered, the project being operated inside one of the project’s crediting periods, the project being operated outside of one of the project’s crediting periods, or credits being issued on the specified dates.
- The words “is in existence prior to” is confusing. It appears to refer to the existence of the physical project, which is not the same as the registration of the project.

### Recommendation

- Date of Registration should be the point of reference for project eligibility.
  - Credits from projects registered on or after 1 January 2017 should be eligible subject to the non-eligibility criteria as in Part III, Section 4
  - Credits from projects registered before 1 January 2017 should be eligible up to the end of the 2020/2021 tax year. Project owners that took early action in registering projects should not be penalised.
  - Subsection (3) should be deleted
  - The inclusion of projects that reduces indirect emissions and does not impact on the fossil fuel consumption of the taxable entity is included by implication. This should be made clear as it is a good and measurable source of offsets. An example would be using waste heat to generate electricity. A waste heat recovery project does not affect the consumption of fossil fuel, or the combustion/process emissions of the site, but specific CDM methodologies exist to develop projects for waste heat recovery as the baseline is electricity generation of the grid.

## 5 SECTION 3 - OFFSET DURATION PERIOD

- Subsection 1 is unclear as:
  - The term “utilised” is undefined.
- Note that the timeframes in this section equates to the defined crediting periods in the CDM, VCS and GS.
- We recommend that the utilisation of the credits should be unpacked into:
  - Credits may be Generated during the crediting periods as defined by the rules of the Approved Standards
  - Credits may be Issued according to the rules of the Approved Standards
  - Credits may be Retired as Offsets subject to the limitations as in Section 2 above
- Subsection 2 is impractical as the Minister does not have the power to influence the duration of the crediting periods in the Approved Standards

## 6 SECTION 4 – NON-ELIGIBILITY

- Subsection 1: The explanatory memorandum is in contrast with this subsection. We recommend that the draft regulation is correct and that the explanatory memorandum be updated

- Subsection 2: We recommend that the word “may be received” be changed to “has received”. This will allow tax payers to choose if they want to get the Section 12L benefits or the carbon offset benefit.
- Subsection 4: This is not required as it is not used elsewhere in the regulations

## 7 SECTION 5 – ADMINISTRATION

The Carbon Offset Administration System is currently being finalised and has been discussed in detail at the project steering committee meetings. This project provides for a carbon offset administration system within the context of the proposed carbon tax. Part of the development of this project is the development of a Procedural Manual and Standard Operating Procedures which have been signed off by the Department of Energy and the project steering committee. In addition, the Standard Operating Procedure is linked to the IT system and registry for carbon offsets which are also being developed for this project.

In this regard we therefore recommend that the tasks of the Administrator should be aligned with the Standard Operating Procedure:

- administer and oversee the offset registry
- process and approve applications for projects with respect to the eligibility of projects for use in the SA system
- process and approve the listing of credits in the SA system

## 8 SECTION 6 – RESPONSIBILITIES OF ADMINISTRATOR

- The words “*registration of an offset*” are inappropriate as:
  - The projects are “*registered*” by the Approved Standards
  - The South African system has a two step process:
    - Step 1 is to check the eligibility of the project to be used
    - Step 2 is to List the credits in the local registry conditional upon its cancelation in the registry of the Approved Standard
- The words “*is an accurate reflection of avoidance, reduction or sequestration of carbon dioxide equivalent (CO<sub>2</sub>e) emissions*” are inappropriate as:
  - The emission reduction checks are performed by the Approved Standards when the projects are registered and the credits issued by them

- The words “*the taxpayer registering the offset*” are inappropriate as the listing request is done by the project owner and not by the taxpayer
- The words “registration of an offset” are inappropriate as:
- The projects are “registered” by the Approved Standards
- The South African system has a two step process:
- Step 1 is to check the eligibility of the project to be used
- Step 2 is to List the credits in the local registry conditional upon its cancellation in the registry of the Approved Standard
- The words “is an accurate reflection of avoidance, reduction or sequestration of carbon dioxide equivalent (CO<sub>2</sub>e) emissions” are inappropriate as:
- The emission reduction checks are performed by the Approved Standards when the projects are registered and the credits issued by them
- The words “the taxpayer registering the offset” are inappropriate as the listing request is done by the project owner and not by the taxpayer
- The words “*issue a certificate*” should refer to an “*electronic certificate*”
- Subsection 4(a) should refer to “*offsets listed*” rather than the current “*offsets registered*”

## 9 SECTION 7 – PROCEDURE FOR CLAIMING ALLOWANCE

This section assumes that the carbon tax payer will list the credits. This cannot work as the credits need to be listed by the project owner prior to the transfer of ownership of the credits to the tax payer.

## 10 SECTION 8 – OFFSET REGISTRY

We recommend that this section be aligned with the contents of the Standard Operating procedure. The Carbon Offset Administration System includes the development of an offset registry system which is in an advanced stage of development.

## 11 SECTION 9 – OBTAINING OF CERTIFICATE

- We recommend that:
  - The primary method of control of the listed credits should lie in the existence of the credits in the registry under unique serial numbers
  - The project and credit owners receive notices of the serial numbers and the relevant information as in Section 10
  - The registry contains an ownership repository in which an up-to-date list of credits (identified by serial numbers) links credits to owners
  - Retirement of credits for carbon tax purposes is an action clearly identified in the registry.