



COP21 and the New Reality of Ontario's Cap-and-Trade Vision

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The 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21) is fast approaching (November 30 to December 11, 2015). COP21 brings with it significant expectations, including the potential for a new comprehensive international agreement on climate change to help keep global warming below 2°C.

With COP21 around the corner, it is anticipated that Ontario will soon reveal the details of its own cap-and-trade system for greenhouse gas (“GHG”) emissions.

What will Ontario's system look like? Will the province capitalize on the clean-tech opportunities that carbon offsets will potentially create? How will this “new reality” impact Ontario's industries?

What follows is a discussion of what the province has done to pave the way for a cap-and-trade system in Ontario and what such a system might look like.

Proposed Amendments to the GHG Emissions Reporting Regulation

Emissions Reporting Threshold and Updated GWP Values

The *Greenhouse Gas Emissions Reporting Regulation* requires certain facilities operating in Ontario that currently emit 25,000 tonnes or more of carbon dioxide equivalent (CO₂e) per year to report and verify their GHG emissions data.

On September 15, 2015, the Ministry of the Environment and Climate Change (“MOECC”) proposed amendments to this Regulation to lower the reporting threshold to 10,000 tonnes of CO₂e. The proposal states that facilities emitting greater than or equal to 10,000 and up to 25,000 tonnes of CO₂e would not need third party verification of their report. Facilities emitting 25,000 tonnes or more of CO₂e would continue to require third party verification.

The Regulation requires reporting of seven types of GHGs, each persisting in the atmosphere for a different length of time and having a different warming impact. Standard ratios, based on the global warming potential (“GWP”) of each GHG, are used to convert the various GHGs into equivalent amounts of carbon dioxide. GWPs describe the total warming impact of a given GHG relative to carbon dioxide over a set period of time. The MOECC is proposing to update the GWP values to be used for reporting GHG emissions. If adopted, Ontario's GWP values would match those used by Environment Canada and other organizations internationally.

The proposed amendments also include the following additional emission sources that were not previously subject to the Regulation:

- ◆ petroleum product suppliers
- ◆ natural gas distributors
- ◆ electricity importers, transmitters and distributors
- ◆ magnesium producers, and
- ◆ mobile equipment at facilities.

The public comment period for this proposal closed on October 29, 2015.

Proposed Emissions Trading System (“Cap-and-Trade”)

Bill 185 “Environmental Protection Amendment Act (Greenhouse Gas Emissions Trading), 2009” was assented to on December 15, 2009. Although not yet proclaimed into force, Bill 185 creates a framework for the creation of a cap-and-trade system in Ontario.

On April 13, 2015, the Government of Ontario announced its intention to create a cap-and-trade system that joins the established systems of Quebec and California.

The general structure of a cap-and-trade system initially involves capping facility GHG emissions and then reducing the cap over time to realize overall reductions.

If a facility exceeds its GHG emissions cap, it would then have to either acquire GHG emissions allowances or face the consequences of non-compliance. If a facility emits less than its GHG emissions cap, it would then be able to bank its unused allowances or sell those allowances to facilities that exceed their GHG emissions cap.

An emission allowance is equal to one metric tonne of CO₂e and is often categorized into three types:

1. Emission credits that are distributed free of charge, auctioned off, or sold by agreement
2. Offset credits arising from GHG emission reductions by non-regulated facilities
3. Credits for early reductions realized by GHG regulated facilities.

Ontario’s cap-and-trade system will likely carry with it the above elements, with certain modifications to reflect Ontario realities.

In September 2015, Ontario announced that it is planning to link its system closer to Quebec’s system by establishing a joint system of carbon offsets to encourage more facilities to reduce GHG emissions.

What’s Next?

Ontario has taken several steps to pave the way for cap-and-trade and facilitate GHG emissions reductions in the province.

The province has created a regulatory regime that allows for the implementation of a cap-and-trade system and proposed revisions to existing legislation to adjust the breadth of facilities that might be subject to such a system.

We wait with anticipation to see where the province will land with cap-and-trade and the “new reality” to be faced by Ontario’s industries.

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