

Regulation of Greenhouse Gases and Air Pollution

2007

In April 2007, the federal government announced its plans to regulate industry with respect to its emissions of greenhouse gases and air pollutants. The affected industries include electricity generation produced by combustion, oil and gas, forest products, smelting and refining, iron and steel, some mining, cement, lime, and chemicals.

Greenhouse Gases

The program is intended to slow the growth of total emissions over the next 3-5 years and produce absolute reductions in total emissions by 2012. Under the proposed regulations, for existing facilities, there will be a required 18% reduction in emissions intensity in 2010 (from 2006 levels) followed by a 2% improvement for each subsequent year (26% reduction by 2015). New facilities (started AFTER 2003) will receive a 3-year grace period after which they must meet the 2% per year reduction target with the baseline created based on a "cleaner fuel standard". So called "Fixed process" emissions are not included in the calculations (e.g. CO₂ from the chemical reaction in cement production).

As the policy for large, energy-intensive industry, the Canadian Chamber supports the intensity approach to facility targets with an option for compliance via payments into a Technology Fund at a defined compliance price. This approach applies pressure and an incentive for performance improvement evenly across all sectors and facilities, new and existing, growing, shrinking or remaining constant. The policy also provides a focus on both near-term emission reductions and advancement of technology for larger future reductions. The Chamber also recognizes that the targets, while significant and possibly costly for many industries, do not attempt to meet Canada's Kyoto Protocol First Commitment Period obligations which we have maintained are unachievable given that the First Commitment Period begins in 2008. With the regulations coming into force in 2010, companies now have some time in which to develop and implement mitigation technologies and action plans.

We are concerned, however, that although a one-time credit for early action has been proposed, companies that have reduced their emissions since 1990 will have a much lower baseline emissions level than their competitors that have not taken action. Baseline protection, often referred to as one of the forms of credit for early action, was an important concept in the industry policy discussions over the past five to ten years to ensure that companies that moved ahead to improve energy efficiency and reduce emissions would not be penalized in the setting of baselines. Credit for early action should take the form of adjustments to facility baselines to ensure that companies that have taken actions to reduce emissions prior to 2006 are not worse off for having done so.

There are several flexibility mechanisms to be available for firms to meet their reduction targets, including:

- internal abatement actions
- payment into the Technology Fund
- domestic emissions trading (and eventually possible trading with the US)
- certain 'eligible' credits from the Clean Development Mechanism
- offsets generated from non-regulated industries
- one-time recognition of verified action taken between 1992 and 2006 (early action)

Particularly in the initial transition period, the Technology Fund will be a major source of emissions credits for many firms that are unable to take immediate action to improve their emissions intensity. Firms will be able to meet at least part of their regulatory requirements through payments into the Fund. The intent behind this compliance options was for this money to be used within the same region to finance currently high-cost-per-tonne projects that will advance technology required for larger future reductions. This seems to have been lost in recent ideas emerging from Environment Canada. The payment rate will be \$15 per tonne from 2010-2012 and \$20 per tonne in 2013 rising in conjunction with nominal GDP in future years. Contributions would be limited to 70% of the total regulatory obligation in 2010, decreasing in subsequent years (65% in 2011, 60% in 2012, 55% in 2013, 50% in 2014, 40% in 2015, 10% in 2016, and 10% in 2017) with no further contributions allowed after 2017.

There may be an option for individual companies to get Technology Fund credit for pre-certified investments in a transformative technology that would incrementally reduce future emissions and there will be a smaller component of the fund limited to 5 Mt per year from 2010-2017 which would help finance research and development projects.

The Canadian Chamber is pleased to see that there are several flexibility mechanisms available to ensure that Canadian firms have the capacity to meet the targets in the event that internal abatement measures are impractical in the short term. The Canadian Chamber supports the concept of the Technology Fund. However, the Chamber believes the phase-out of the Fund as a compliance mechanism is inappropriate and short-sighted. It is also important that the structure and administration of the fund involve business in the decision-making process with respect to determining how the money in the fund will be spent. This will avoid the danger of the Technology Fund becoming a political "slush fund".

It is important that the money in the Technology Fund be dedicated to the development and implementation of technology that will help industry reduce their emissions of greenhouse gases or help to offset those emissions. The Canadian Chamber is very concerned that the short lifetime of the Fund and its mandate to achieve "one-for-one" reductions matching the investments into the Fund will mean that little money will go to actual research into new and innovative technologies. In particular, more money should be allocated to the research and development section of the fund and more flexibility should be allowed as to the type of research that can be funded.

Air Pollution

With respect to air pollutants, absolute targets (not based on intensity) which "are at least as rigorous as those in the US or other environmental performance-leading countries" will be set, coming into effect between 2012 and 2015. National emissions caps were estimated on the basis of internal analysis done by Environment Canada that came up with the following percentage reductions from 2006 (Canada total): Nitrogen Oxides (NOx) 40%, Sulphur Oxides (SOx) 55% Volatile Organic Compounds (VOCs) 45% and Particulate Matter (PM) 20%. Limits will be set for some other pollutants in certain sectors. Emissions trading will be allowed nationally for both Nitrogen Oxides and Sulphur Oxides and there may eventually be an international trading market with the United States.

We understand that the consultation sessions with industry to validate the sector-specific air pollutant targets have revealed serious short-comings in the data and analysis underlying these targets as well as fundamental questions about the proposed approach to regulation and the process for finalizing regulations.

This initiative of the federal government to set national emission targets for these pollutants is a break from the ongoing work of the Canadian Council of Ministers of the Environment (CCME) in setting Canada-wide standards. There is concern that there has been limited consultation

prior to the setting of the objectives and the new form of regulation. It appears the objectives and proposed emission limits are not based on health or environmental impact in the different regions of Canada; nor the proposed regulations build on existing, successful regulatory approaches that involve both the federal and provincial governments.

The Canadian Chamber is particularly concerned with the absence of a link between emission limits and local air quality issues and the balancing of costs of emission reduction efforts and benefits of new economic activity – this could present a serious barrier to new investment in Canadian industries and affect our international competitiveness.

Other initiatives

Several other initiatives will be put into place to cover emissions from industries not covered by the above regulations:

- Beginning with the 2011 model year, motor vehicles will have a mandatory fuel-efficiency standard, developed with consultation by the end of 2008. The federal government also plans to work with the U.S. to develop a continental standard for fuel-efficiency.
- Regulations in 2011 to replace the current Memorandum of Understanding with the rail sector
- Adopting current international standards for controlling air pollution from ships and working to develop new, stricter international standards
- Regulations to reduce air pollutant emissions from on-road and off-road vehicles and engines in alignment with U.S. EPA Rules
- Energy efficiency standards for consumer and commercial products, including new energy performance standards for 18 currently unregulated products (such as commercial clothes washers and commercial boilers) and more stringent requirements for 10 currently-regulated products (such as dishwashers and dehumidifiers).

Recommendations

That the federal government:

1. Maintain the intensity target approach to restricting greenhouse gas emissions recognizing that these targets are expected to lead to absolute emission reductions.
2. Acknowledge that many companies have already taken action to reduce greenhouse gas emissions, and allow for an adjustment to facility baselines to provide baseline protection.
3. Increase the amount of money that must be invested into the research and development part of the Technology Fund.
4. Eliminate the phase-out of the Technology Fund. After 2013, annually increase the payment rate into the Technology Fund by twice the nominal GDP growth rate – with the objective of raising the payment rate, over time, to the point where it becomes more economic to reduce emissions than make payments into the Technology Fund.
5. Ensure that all money invested in the Technology Fund is dedicated to the development and implementation of technologies that will help industry reduce its emissions or help to offset those emissions.
6. Ensure that there is industry involvement in the management of the Technology Fund and in determining where the best opportunities are available for emissions reduction investment.

7. In addition to allowing for the generation of greenhouse gas emissions credits through the Clean Development Mechanism, also consider allowing for Joint Implementation projects under the Kyoto Protocol.
8. Work with the provinces, territories and First Nations governments to develop appropriate regional caps for emissions of nitrogen oxides, sulphur oxides, volatile organic compounds and particulates.
9. In provinces where the provincial regulatory scheme meets or exceeds the objectives of the federal plan, recognize the provincial regulatory construct as equivalent and let meeting the requirements of that plan be considered as meeting the requirements of the federal plan. Harmonization of federal/provincial/territorial criteria air contaminant regulation should occur.
10. When setting energy-efficiency or emissions standards for products, apply a technology-neutral approach to ensure the standard is based on a particular emission level or energy-use level and does not arbitrarily include/exclude particular types of products.
11. Work with the provinces and territories to strive to achieve and maintain a single, national fuel economy standard harmonized at a national level with the jurisdictions in the U.S. to ensure Canada maintains the significant environmental and economic benefits of our integrated North American auto sector.