Carbon Competitiveness Incentive Regulation replaces and adds rigour to Alberta’s existing industrial carbon emissions regulation

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- A new Carbon Competitiveness Incentive Regulation (CCIR) will replace the current Specified Gas Emitters Regulation (SGER) beginning January 1, 2018
- The CCIR introduces output-based allocation of allowable carbon emissions intensity on individual industries, which is a major change from the SGER and incents decarbonization of Alberta’s industry at an accelerated rate
- Other differentiating features of the CCIR include annual tightening of allowable emissions, broader coverage of specified gases and caps on the use of market-based compliance mechanisms

Beginning January 1, 2018, a new Carbon Competitiveness Incentive Regulation (CCIR) will replace the current Specified Gas Emitters Regulation (SGER), under which large industrial emitters of greenhouse gases have been required to report and reduce their carbon dioxide and equivalent emissions since 2007.

The CCIR was published as a new regulation under the Climate Change and Emissions Management Act (Alberta) on December 18, 2017, just a few weeks prior to the scheduled expiry of the SGER.

Several key features of the CCIR differentiate it from the SGER, which expires December 31, 2017. For more information on the SGER, see here, here and here.

OUTPUT-BASED ALLOCATION OF ALLOWABLE EMISSIONS INTENSITY
While the SGER created an emissions reduction requirement that was based on a particular facility’s historical and idiosyncratic emissions profile, the CCIR will impose an output-based benchmark on all competitors in the same emitting industry.

Benchmarking works as follows: Products produced by a regulated facility in Alberta – such as electricity, thermal heat used for industrial purposes, bituminous coal, bitumen from oil sands operations and intermediate and end products of refining operations – are assigned a benchmark, or permitted emissions intensity for each benchmark unit of such product. For instance, electricity exported from a facility in 2018 is allocated a benchmark of 0.37 tonnes of emissions for each megawatt-hour of production. Net emissions for any facility in a year may not exceed the output-based allocation applicable to that facility’s sector. Where actual emissions intensity exceeds the benchmark, the large emitter will need to bring its net emissions down by applying emission performance credits, emission offsets or fund credits against its actual emissions in the applicable year.

In cases where there is only one regulated facility or large emitter producing a specific product, the government will assign a benchmark for those products produced by facilities without an established benchmark under the CCIR, and reserves the right to review and update the assigned benchmark at any time.

In a competitive industry, those large emitters whose facilities emit less than the benchmark for that industry will bear no carbon costs, while the brunt of the industry’s CCIR compliance costs will be borne by the least efficient industry players. A transition to this benchmarking methodology retains an intensity basis for reducing Alberta’s large industrial emissions and therefore avoids curbing economic expansion. At the same time, intra-sector benchmarking stimulates competition for decarbonization among large industrial emitters in the same sector, which the SGER failed to accomplish.

Many of the established benchmarks are designed to reflect a benchmark of 80% of production-weighted average emissions intensity for their sector. This would suggest that the 20% least emissions-intensive competitors in those industries would bear no CCIR compliance costs.

Exceptions exist for the electricity sector, which will be held to a “good as best gas” standard, and oil sand in-situ and mining, which will be held to a “top-quartile performance or better” standard, and other exceptions. Per the Standard for Establishing and Assigning Benchmarks Version 1.0, to be adopted concurrently with the CCIR, upgrading, natural gas processing and multi-product chemical manufacturing emitters will receive an interim 80% assigned benchmark until the necessary industry data has been gathered to develop established benchmarks for those industries.

Where a whole industry sector demonstrates risk of carbon leakage, or moving operations and emissions outside of Alberta, the government has indicated that the benchmark stringency may be lowered to 90% or 100% of the production-weighted average emissions intensity for that sector until the economic risk is mitigated.

Where the product-based benchmark is more stringent than the best-performing facility in the sector, the government has indicated that the benchmark will be matched to the emissions intensity of that facility, called a “best-in-class” benchmark.

Evidently, the CCIR is designed to promote carbon-efficient practices within industries, while retaining flexibility to recognize the actual emissions profile within an industry, carbon leakage risk, and trade-exposed industries.
ANNUAL TIGHTENING OF ALLOWABLE EMISSIONS

In addition to the transition to industry-specific benchmarks, the CCIR will tighten the free emissions allocations within an industry at a rate of 1% per year, commencing in 2020. In this way, the CCIR accelerates year-over-year emissions reductions while the static SGER reduction targets did not (except when amended by regulation).

In the meantime, the CCIR compliance obligations, be they allocated based on a product-specific established benchmark or an interim assigned benchmark for individual facilities, will phase in at 50%, 75% and 100% of compliance obligations in the 2018-2020 period, based on historical emissions of each facility.

SAME COMPLIANCE OPTIONS, WITH A TWIST

Large emitters subject to the CCIR will have the same four emission reduction compliance options available to them as they had under the SGER:

1. improvements in facility operating efficiency
2. emission performance credits (carried-over operating efficiencies earned by regulated emitters in excess of the emissions reduction threshold for a previous compliance period);
3. emission offsets (earned through the removal or reduction of greenhouse gas emissions by way of an approved and non-legally required emission offset project in Alberta and verified by third-party verification procedures, and purchased by a regulated large emitter)
4. fund credits (payments made to a government body at the current rate of $30 per tonne of emissions).

However, the CCIR introduces a shelf life to emission offsets and emission performance credits. Those offsets or credits generated in 2014 and earlier will expire in 2020, and those generated in 2015 or 2016 will expire in 2021. Emission offsets and emission performance credits generated in 2017 and going forward will have an eight-year expiry, in contrast to the SGER’s evergreen shelf life for such credits. The consequence of the introduction of built-in expiry dates is that generators of these credits will need to use their credits, trade them in the Alberta market, or forever lose their value.

In addition, the CCIR introduces a cap on a large emitter’s ability to use emission offsets and emission performance credits towards its emission reduction obligations under the CCIR. While the SGER permitted a large emitter to use any combination of compliance options to meet its emissions reduction requirements, the CCIR will cap the use of emission offsets and emission performance credits at 50% of the emitter’s total compliance obligation, which cap will grow to 60% by 2020. Since there is likely a natural limit on how much of a large emitter’s compliance can be achieved through annual operating efficiencies, a policy which caps the use of market-based offsets will drive regulated facilities to purchase fund credits from the government’s Emissions Reduction Alberta agency. In turn, this will ensure an annual stream of government funds for energy efficiency initiatives, green infrastructure spending, household energy rebates and other promised government initiatives.

This new limit on emission offset usage for CCIR compliance further reinforces the incentive to trade emission offsets, in a use, lose or trade scenario. Further, since emission offsets tend to trade at a discount to fund credits, a cap on the use of emission offsets under the CCIR may increase total
compliance costs for large emitters.

**COVERAGE OF SPECIFIED GASES**

The CCIR will expand the scope of regulated emissions to those specified gases identified in the SGER, plus an additional nine gases. This aligns Alberta regulation with the United Nations Framework Convention on Climate Change.

Certain industrial process emissions, those primarily fixed by chemistry, will be included in the CCIR pricing system and allocated at a 100% benchmark (facility or product sector, as the case may be). Due to the recognized difficulty in reducing these emissions, no tightening of the allowable emissions intensity will apply for these industrial process emissions (excluding industrial process emissions in the refining sector).

Other emissions, such as certain indirect emissions associated with intermediate inputs to a production facility and certain emissions associated with biomass combustion or decomposition, will be excluded from CCIR’s output-based allocations. Those affected should evaluate the exceptions and their scope of application carefully for CCIR reporting and compliance purposes.

**SIMILARITIES TO THE PREDECESSOR SGER**

In many respects, the CCIR is similar to its predecessor SGER regulation. First, regulated facilities must still follow quantification and reporting standards. Any facility emitting 50,000 tonnes or more of carbon dioxide or equivalent regulated greenhouse gas must submit to annual reporting of its emissions, and a facility emitting 100,000 tonnes or more is subject to the reduction requirements, consistent with the SGER.

Similarly, facilities that produce less than this threshold of regulated gases may opt into the CCIR, including where: (i) the facility competes directly against another facility that is regulated under the CCIR, or (ii) where it has greater than 50,000 tonnes of annual emissions and high emissions intensity and trade exposure, as defined in the CCIR. In order to opt in to the CCIR, the large emitter must apply in the preceding year and meet the qualifying conditions. One of the qualifying conditions includes evidence that the facility will not bear lighter carbon levy costs under parallel Alberta climate change regulation as a result of opting in. An opted-in facility under the SGER is not automatically opted in under the CCIR, and the director may revoke the designation at any time if it would further the goal of reducing greenhouse gas emissions.

A new feature of the CCIR is that facilities with emissions exceeding 1,000,000 tonnes will also be required to submit quarterly compliance reports and add annual emissions forecasts to their annual reports.

Importantly, regulated facilities under the CCIR will continue to be exempt from carbon pricing on emissions under their applicable benchmark, and therefore not subject to the retail carbon tax on applicable emissions imposed under the Climate Leadership Act (Alberta) and associated carbon levy regulation.
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