Carbon and Greenhouse Gas Legislation in Alberta

The Carbon Tax Repeal Act repealed the Alberta carbon tax. The federal carbon pollution pricing system will apply in the province beginning January 1, 2020.

Legislating an emissions limit on the oil sands of: 100 mega tonnes CO₂/year.

Phasing-out coal-fired electricity by 2030.

Reducing methane emissions from oil & gas operations by: 45% by 2025.

The Climate Change and Emissions Management Act & Specified Gas Emitters Regulation place intensity-based limits on industrial GHG emissions.

CARBON POLLUTION PRICING

On June 4, 2019, the Carbon Tax Repeal Act (the Act) repealed the Alberta carbon tax, which had been in effect since January 1, 2017. The Act:

* Repeals the Climate Leadership Act and ends the Alberta Climate Leadership Adjustment Rebate.
• Shortens the time period to apply for outstanding refunds or rebates from four years to two years.
• Grants fuel users until the end of 2019 to apply for rebates in respect of fuel used for an exempt purpose in 2017.
• Grants re-sellers that sold tax-exempt fuel in 2019 until the end of 2021 to apply for a refund on the tax they paid when they purchased the fuel.
• Removes the spending restrictions on existing carbon tax revenue and ensures the carbon tax is not charged on sales after it’s repealed.

The federal government announced that it will replace the Alberta carbon tax with the federal carbon pollution pricing system, as it has done in Ontario, New Brunswick, Manitoba, and Saskatchewan.

**CONSTITUTIONAL CHALLENGE**

Alberta has announced that it will challenge the constitutionality of the federal carbon pollution pricing system under the *Greenhouse Gas Pollution Pricing Act*.

**CARBON COMPETITIVENESS INCENTIVE REGULATION**

The *Carbon Competitiveness Incentive Regulation (CCIR)* continues to apply to facilities that emitted 100,000 tonnes or more of greenhouse gases (GHG) in 2003 or a subsequent year. The *CCIR* imposes an output-based benchmark on all competitors in the same emitting industry.

The *CCIR* offers four compliance options:

• improvements in facility operating efficiency
• emission performance credits
• emission offsets
• fund credits

Facilities that emit less than 100,000 tonnes of GHG may be eligible to opt in to the *CCIR* if they

• compete against a facility regulated under the *CCIR*; or
• have more than 50,000 tonnes of annual emissions, high emissions-intensity and trade exposure

**CAPPING OIL SANDS EMISSIONS**

As per the *Oil Sands Emissions Limit Act*, Alberta has set an annual GHG emissions limit on the oil sands of 100Mt, with provisions for cogeneration and new upgrading capacity.

**PHASING OUT COAL**

In 2016, the provincial government announced that it will *phase out coal* by 2030. Transition payments will be provided to facilities that were originally set to operate their coal-fired units beyond 2030.

**REDUCING METHANE EMISSIONS**

Alberta has committed to reducing methane emissions from oil and gas operations by 45% by 2025. To do so, the province plans to:

• Apply new emissions design standards to new Alberta facilities.
• Improve measurement and reporting of methane emissions, as well as leak detection and repair
requirements.

- Develop a joint initiative on methane reduction and verification for existing facilities and backstop it with regulated standards that take effect in 2020. This initiative will include Alberta industry, environmental groups and Indigenous communities.

The Alberta Energy Regulator along with Alberta Energy and the Alberta Climate Change Office will lead the implementation of the new methane standards for oil and gas.

**RENEWABLE FUELS STANDARD**

The *Renewable Fuels Standard*, set out in the *Renewable Fuels Standard Regulation* (the Regulation), requires a minimum annual average of 5% renewable alcohol in gasoline and 2% renewable diesel in diesel fuel sold in Alberta by fuel suppliers.

In order to meet the requirements of the Renewable Fuels Standard, renewable fuels must demonstrate at least 25% fewer GHG emissions than the equivalent petroleum fuel.


**SPECIFIED GAS REPORTING REGULATION**

The *Specified Gas Reporting Regulation* (the Regulation) sets out the requirements for reporting on gas that has been released into the environment. The *Specified Gas Reporting Standard* (the Standard) sets out which facilities are required to report specified gas emissions and how the information is collected.

Facilities that are subject to reporting requirements under the Regulation must abide by the requirements set out in the Standard.

Facilities that are subject to the Regulation may ask that portions of their gas report be kept confidential for up to five years. In order to do so, they must ground their request on the basis that the information is commercial, financial or scientific; or technical information that would reveal proprietary business, competitive, or trade secret information about a specific facility, technology, or corporate initiative.

The Regulation expires on December 31, 2022.

© Osler, Hoskin & Harcourt LLP. This content is for general information purposes only and does not constitute legal or other professional advice or an opinion of any kind. You can subscribe to receive updates on a range of industry topics at osler.com/subscribe.