Canadian Government Carbon and Greenhouse Gas Legislation

The Greenhouse Gas Pollution Pricing Act implemented the federal carbon pollution pricing system. The Act has two parts: the fuel charge and the output-based (OBPS) pricing system.

As of 2019, the fuel charge is $20 per tonne of CO$_2$e. This amount will gradually rise to $50 per tonne by 2022.

The OBPS requires facilities to pay a carbon price if their emissions exceed a set level. It applies to facilities that emit 50,000 tonnes or more of CO$_2$e.

THE GREENHOUSE GAS POLLUTION PRICING ACT

The Greenhouse Gas Pollution Pricing Act (the Act), which implements the federal carbon pollution pricing system, received Royal Assent on June 21, 2018. The Act has two key parts:

- Part 1, administered by the Canada Revenue Agency, applies a charge to 21 types of fuel and combustible waste.
- Part 2, administered by Environment and Climate Change Canada, introduces an output-based pricing system (OBPS) for large industrial emitters.

Provinces and territories are free to choose whether to implement a carbon pollution price or a cap-and-trade system, as long as they meet the minimum federal pricing and emissions reduction targets. The federal pricing system applies in jurisdictions that do not implement a carbon tax or cap-and-trade system, or that do not meet the federal pricing and emissions reduction minimums.

Currently, the federal system applies in Manitoba, New Brunswick, Ontario, Saskatchewan, Nunavut and Yukon. The federal government has also adopted regulations that will come into force on January 1, 2020, rendering Alberta a further jurisdiction to which the federal carbon pricing system will apply.
FUEL CHARGE

The fuel charge applies to 21 types of fuel delivered, transferred, used, produced, imported, or brought into the provinces and territories in which the federal system applies. It also applies to combustible waste that is burned for the purpose of producing heat or energy.

As of 2019, the fuel charge is $20 per tonne of CO₂ equivalent. It will increase by $10 annually, until it reaches $50 per tonne of CO₂ equivalent in 2022. Generally, the charge applies early in the supply chain and is payable by the registered distributor.

The fuel charge came into effect in April 2019 in Manitoba, New Brunswick, Ontario and Saskatchewan, and in July 2019 in Nunavut and Yukon.

OUTPUT-BASED PRICING SYSTEM

Under the OBPS, facilities pay a carbon price if their emissions exceed a set level. Facilities that pollute less than the set level earn credits they can sell.

The OBPS applies to facilities that meet the following criteria:

- Are located in a backstop jurisdiction (a province or territory in which the federal carbon pollution pricing system applies).
- Have reported 50,000 tonnes of carbon dioxide (CO₂) equivalent or more in 2014 or a subsequent year to the Greenhouse Gas Reporting Program.
- Carry out a covered activity.

Facilities that emit less than 50,000 tonnes of CO₂ equivalent may apply to be covered by the OBPS. The Voluntary participation policy for Output-Based Pricing System outlines the considerations the Minister of the Environment will take into account when making such a designation.

The OBPS has three regulatory instruments:

- The Registration Notice – Prescribes the criteria for determining which facilities are required to register in the OBPS (covered facilities). The notice also contains a list of covered industrial activities, which, among others, includes:
  - For a natural gas pipeline transmission system, transmitting natural gas.
  - For a petroleum refinery, the processing of crude oil, including bitumen, heavy crude oil, light crude oil and synthetic crude oil or secondary petroleum products.
- The Information Order and the Order Amending the Information Order – Prescribes the quantification, reporting, and verification requirements for covered facilities. The requirements came into effect starting January 1, 2019 in the provinces where the OBPS applies and July 1, 2019 in Nunavut and Yukon. The orders include requirements related to
  - sampling, analysis and measurement in order to quantify the greenhouse gas (GHG) emissions emitted from that facility.
  - quantification of production amounts.
  - making and keeping of records.
  - producing verified annual reports.
- The OBPS Regulations – Prescribes, among other things, the manner in which a person responsible for a covered facility must prepare a report that sets out the information with respect to the GHG emissions limit and cause the report to be verified.
methods to quantify the GHGs from a covered facility and the production from each specified industrial activity engaged in at the covered facility.

- manner of determining the covered facility’s GHG emissions limit based on the facility’s production from each specified industrial activity and the applicable output-based standard.

- manner in which compensation is provided for excess emissions and surplus credits are issued.

An owner or operator of a covered facility must apply to register the facility in the OBPS.

**REGULATIONS RESPECTING REDUCTION IN THE RELEASE OF METHANE AND CERTAIN VOLATILE ORGANIC COMPOUNDS**

The *Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds* (the Regulations) come into force on January 1, 2020, except for sections 26, 27, and 37 to 41, which come into force in 2023. The Regulations:

- Impose certain requirements on the oil and gas sector in order to reduce emissions of methane and certain volatile organic compounds.

- Designate the contravention of certain of its provisions as serious offences by adding them to the schedule to the *Regulations Designating Regulatory Provisions for Purposes of Enforcement* (Canadian Environmental Protection Act, 1999).

**PAN-CANADIAN FRAMEWORK ON CLEAN GROWTH AND CLIMATE CHANGE**

In December 2016, the federal government released the *Pan-Canadian Framework on Clean Growth and Climate Change* (the Framework). The Framework is based around four main “pillars”: (i) carbon pricing; (ii) complementary action to reduce emissions across the economy; (iii) adaptation measures; and (iv) actions to accelerate innovation, support clean technology, and create jobs.

Central to the Framework is a discussion of the federal carbon pollution pricing system (described above). Additional key commitments under the Framework include completely phasing out coal by 2030, developing increasingly stringent building codes starting in 2020, developing a clean fuel standard based on a full life-cycle analysis, continuing the phase down of hydrofluorocarbons, implementing methane regulations with the goal of reducing methane emissions by 40-45% by 2025, and reducing federal government GHG emissions by 40% below 2005 levels by 2030 or sooner.

**LOW CARBON ECONOMY FUND**

The $2 billion Low Carbon Economy Fund (the Fund) is a key part of the Framework. The Fund is divided into two parts:

- **Low Carbon Economy Leadership Fund** – Provides up to $1.4 billion to provinces and territories that have adopted the Framework. It is intended to help them deliver on their commitments to reduce GHG emissions.

- **Low Carbon Economy Challenge** – Provides $500 million for projects that reduce GHG emissions and generate clean growth.

**GREENHOUSE GAS EMISSIONS REPORTING REQUIREMENTS**

There are multiple federal GHG reporting requirements:
• Under the Canadian Environmental Protection Act, 1999, Environment and Climate Change Canada requires certain emitters to report GHG emissions annually. In addition, all facilities engaged in carbon capture, transport and storage (CCTS) must submit a report covering their CCTS activities, regardless of their annual GHG emissions.

• Under the federal Greenhouse Gas Reporting Program, all facilities that emit 10,000 tonnes or more per year of GHG, in CO₂ equivalent units, are required to report.

COAL

Effective July 1, 2015, the Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations came into force under the Canadian Environmental Protection Act, 1999. The regulations place a limit of 420 tonnes of CO₂ for each gigawatt-hour of electricity produced from coal per year. Compliance with the regulations by all new and most existing coal-fired electricity-generating plants will be required immediately, with some existing units being required to comply with the regulations before 2030.

Effective November 30, 2018, the Regulations Amending the Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations also introduced a performance standard designed to phase out conventional coal by 2030.

NATURAL GAS

The Regulations Limiting Carbon Dioxide Emissions from Natural Gas-fired Generation of Electricity, which came into force on January 1, 2019, impose performance standards (CO₂ emission intensity-based limits) on new and significantly modified natural gas-fired electricity generating units, including combustion engines and boiler units.

FUEL

The federal government has also implemented the Regulations Amending the Passenger Automobile and Light Truck Greenhouse Gas Regulations and the Heavy-Duty Vehicle and Engine Greenhouse Gas Emission Regulations (regulating the emissions standards of typical consumer and industrial vehicles), as well as the Renewable Fuel Regulations (governing the minimum quantities of renewable fuel that must comprise gasoline, diesel and heating fuels supplied in Canada).

The federal government has also published a regulatory framework for the proposed Clean Fuel Standard, which will apply to liquid, gaseous and solid fuels combusted for the purposes of creating energy. In February 2019, Environment and Climate Change Canada released the Cost-Benefit Analysis Framework for the Clean Fuel Standard.

INTERNATIONAL CO-OPERATION

In November 2017, Canada ratified the Kigali Amendment to the Montréal Protocol, which will phase down hydrofluorocarbons—or HFCs which, in addition to their role in atmospheric ozone layer deterioration (being the focus of the Montréal Protocol), are very powerful GHGs. Canada has also been working to harmonize its climate change efforts with those of other countries. In this regard, Canada has announced partnerships with France and the World Bank Group and on November 20, 2017, Canada signed a Memorandum of Understanding with Rwanda to this effect.
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