



Ontario Passes Cap-and-Trade Legislation: What Can You Expect?

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On May 18, the Ontario Legislature passed Bill 172, the Climate Change Mitigation and Low-Carbon Economy Act, 2016. Bill 172 might be arguably the most significant and far-reaching piece of environmental legislation enacted in the province since 1971's Environmental Protection Act.

The legislation sets the province's ambitious targets for greenhouse gas (GHG) reduction – 15 per cent below 1990 levels by the end of 2020, 37 per cent by the end of 2030 and 80 per cent by the end of 2050. It also requires the Ministry of the Environment and Climate Change (MOECC) to develop detailed Climate Change Action Plans and sets out the framework for a cap-and-trade program to limit and reduce the release of GHGs by major Ontario emitters. (For a more detailed assessment of the Act, click [here](#) to see our earlier Cap and Trade Update.)

Under the Act, Ontario now has the authority to auction carbon allowances, which is expected to be done through the Western Climate Initiative Inc. (WCI). Ontario, British Columbia, California, Quebec and Manitoba are working together through the WCI to develop and harmonize their emissions trading programs. The first auction of Ontario allowances is scheduled to be held in March 2017.

All revenues generated from auctioning allowances will be deposited in the province's new Greenhouse Gas Reduction Account (GGRA) and reinvested in green projects and initiatives that are "reasonably likely" to reduce or support the reduction of GHG emissions. This could include spending on public transit, clean-tech innovations for industry, electric vehicle incentives and charging stations, home energy audits and social housing retrofits. The government has characterized its \$325 million Green Investment Fund, announced in the 2015 Fall Economic Statement, as a "down payment on the cap-and-trade program."

The cap-and-trade system

Ontario is setting an "economy-wide" cap on GHG emissions of 142 megatonnes per year in the first year of the program, declining to 125 Mt per year by 2020. The details on which major emitters will be prescribed under the cap-and-trade program and how allowances will be allocated is set out in the new Cap And Trade Regulation (O. Reg. 144/16) and associated methodology issued under the Act. To comply, individual companies can become more energy efficient, reduce their use of fossil fuels and/or

purchase additional carbon allowances (or credits). A company that has reduced its emissions below the cap, will have credits available for sale.

Note that only registered participants are eligible to purchase, sell, trade or otherwise deal with Ontario emission allowances and Ontario credits.

To ease the transition to a low carbon future (and protect Ontario jobs in trade-exposed companies), the province will allocate temporary allowances to certain emitters. Under the Act, these allowances are transitional in nature only, and the province will re-assess the number of allowances to be distributed free of charge after the first compliance period.

Government engineered quick passage of Act

Despite its potential to completely revamp the provincial economy, passage of the landmark legislation took less than three months. Bill 172 was introduced for First Reading on February 24, 2016, was debated in the legislature for seven days before passing Second Reading on March 10, and was referred to the Standing Committee on General Government for review. The Committee made a number of amendments to the Bill, several relating to public transparency, before referring it back to the Legislature on May 4. Following another five days of debate, Bill 172 passed Third (and final) Reading on May 18 and received Royal Assent later that same day.

The changes made to the final version of the Bill include the following:

- ◆ GHG reduction targets may be adjusted in the future in response to any temperature goals recognized by the Parties to the UN's Framework Convention on Climate Change (s.6(3.1)).
- ◆ The Climate Change Action Plan must consider the impact of the regulatory scheme on low-income households and must assist those households with Ontario's transition to a low-carbon economy (s.7.2.1).
- ◆ The Minister must present the Action Plan to the Legislature (and make it available to the public) before January 1, 2017 (s.7.5).
- ◆ The Minister must report annually (rather than every five years) on the status of the actions set out in the Action Plan (s.8(1)).
- ◆ The Minister must report on the distribution of free allowances in the cap-and-trade program within 24 months after each such distribution (s.30(4.1)).
- ◆ MOECC's evaluations of initiatives to be funded by the Greenhouse Gas Reduction Account (GGRA) must be reported to the public annually (s.68(3.1)).

No more personal Information may be collected, used and disclosed than is reasonably necessary (s.60(5)).

Additional amendments relate to the duty to report and verify emissions (ss. 10-11), information requests by the Director (s.12), transactions by unregistered persons (s.21),

the actions of account agents (ss.22-23), the retirement or cancellation of emission allowances (ss. 29-31.1) and credits (ss. 32-35.1), and the verification of reports (s.37.1).

Next Steps

MOECC isn't wasting any time filling in the details needed to implement the Act. On May 19, the Ministry posted four new instruments to the Environmental Registry (Registry #012-6837):

- ◆ the final version of The Cap and Trade Program Regulation (O. Reg. 144/16);
- ◆ the associated methodology for allocating allowances;
- ◆ the new Quantification, Reporting and Verification of Greenhouse Gas Emissions Regulation (O. Reg. 143/16); and
- ◆ the incorporated guideline for quantifying emissions.

The Cap and Trade Regulation and allocation methodology will take effect July 1, 2016, while the GHG Emissions Regulation and Guideline will take effect January 1, 2017. The Ministry is also expected to release its first five-year Climate Change Action Plan later this spring. The Plan will describe those incentives and programs intended to help Ontario households and businesses adopt low-carbon and no-carbon energy systems, and to establish the necessary framework to meet Ontario's 2030 and 2050 GHG reduction targets.

According to the Ministry, the Plan will constitute “the largest investment in public infrastructure in Ontario's history” and will be used to promote “a low-carbon economy driven by innovative, high-growth, export-oriented businesses.”

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