



April 11, 2016

Ms. Melissa Ollevier
Senior Policy Advisor
Ministry of the Environment and Climate Change
Climate Change and Environmental Policy Division
Air Policy Instruments and Programs Design Branch
77 Wellesley Street West, Floor 10 Ferguson Block
Toronto, Ontario M7A 2T5

Dear Ms. Ollevier:

Re: Regulation Proposal Notice: Cap and Trade Regulatory Proposal and Revised Guideline for Greenhouse Gas Emissions Reporting - EBR Registry number 012-6837

On behalf of the Ontario Energy Association's (OEA) Board of Directors and members, I appreciate the opportunity to provide you with comments outlining our advice to the Government of Ontario on the Cap and Trade Regulatory Proposal and Revised Guideline for Greenhouse Gas Emissions Reporting.

The OEA's members have come together to provide this collective advice to government via this Environmental Registry posting. The OEA has also provided advice on the Climate Change Mitigation and Low-Carbon Economy Act, 2016 (EBR 012-6844) as well as providing comments to the Standing Committee on General Government.

As Ontario's energy voice, the OEA represents Ontario's energy leaders and corporate members that span the full diversity of the energy industry. Such diversity allows us to offer a broad and comprehensive perspective on the Cap and Trade Regulatory Proposal. The OEA has devoted considerable effort and resources to gathering intelligence and developing a position on these issues, the results of which are outlined in the attached submission.

We look forward to continuing the dialogue with you and your team on how our recommendations could strengthen the functioning of Ontario's cap and trade program. If you have any questions regarding this submission please feel free to contact Tina Arvanitis, Vice President, Government Relations and Strategic Communications at your convenience at 647.920.3269 or tina@energyontario.ca.

Best regards,

A handwritten signature in black ink that reads "Bob Huggard".

Bob Huggard
President and CEO
Ontario Energy Association

ONTARIO ENERGY ASSOCIATION

OEA PROPOSED AMENDMENTS TO CAP AND TRADE REGULATORY PROPOSAL & REVISED GUIDELINE FOR GREENHOUSE GAS EMISSIONS REPORTING

APRIL 11, 2016

To shape our energy future for a stronger Ontario.



Ontario Energy Association

ABOUT

THE OEA

The Ontario Energy Association (OEA) aspires to be the most credible and trusted voice of the energy sector. We earn our reputation by being an integral and influential part of energy policy development and decision making in Ontario. We represent Ontario's energy leaders that span the full diversity of the energy industry.

The OEA takes a grassroots approach to policy development by combining thorough evidence based research with executive interviews and member polling. This unique approach ensures our policies are not only grounded in rigorous research, but represent the views of the majority of our members. This sound policy foundation allows us to advocate directly with government decision makers to tackle issues of strategic importance to our members.

Together, we are working to build a stronger energy future for Ontario.

BRIEFING NOTE

Date: April 11, 2016

Subject: OEA Comments on Cap & Trade Regulatory Proposal

The OEA is pleased to offer comments on the cap and trade regulatory proposal (Environmental Registry file no. 012-6837). This briefing note and accompanying amendments to the draft regulation complement the submission that the OEA previously made to the Ministry of the Environment and Climate Change under EBR file 012-6844, as well as the remarks and proposed amendments to Bill 172 that were submitted to the Standing Committee on General Government on April 4. The OEA's comments on the draft regulation focus on four areas that we think could use improvement/strengthening as Ontario prepares to launch its cap and trade program.

Please note that further comments may be forthcoming pending the release of new information from the MOECC including but not limited to modelling information, information on CHP, the offset regulation and the administrative monetary penalties regulation.

TIMELINES

The OEA would like to reiterate the need for more detailed information from government if the energy industry is to be ready for the proposed January 1, 2017 program start date. The industry had requested a start date of 2018 (at the earliest) for many reasons, chief among them the need to ensure that the industry, regulator, customer, and government itself had the lead time necessary to prepare for the changes that cap and trade will entail. The government has nonetheless decided to move ahead with a 2017 program launch; the industry will do its utmost to be ready for this earlier start date, but to do so in an effective manner will require key-information from government in short order – in particular, the following key aspects of the cap and trade program must be released along the following timelines in order for industry to adjust its business plans and support the launch of cap and trade and the broader goals of Ontario's climate policy in just over six months:

- 1) The public notice of the baseline (1990) required to calculate the 2030 and 2050 provincial targets – by July 1, 2016
- 2) The Action Plan (including content defined in EBR file 012-6844 and that defined below) – by July 1, 2016
 - a. Detail related to key complementary initiatives (both policy and expenditures of proceeds of sale of allowance) and resulting emission reductions expected in the 2017-2020 and 2021-2023 timeframe
 - b. Detail related to the amount of allowance allocated to the EITE sectors as well as to non-EITE sectors through the 2017-2020 compliance period
 - c. Detailed annual caps for the 2021-2023 three year compliance period
 - d. Detailed plan (steps and timelines) for formally joining the WCI and participating in the broader carbon market
 - e. The government's forecast volume of allowance that Ontario will be acquiring from California during the 2017-2020 timeframe
 - f. The government's price forecast for WCI allowance in the 2017-2020 timeframe
- 3) The GGRA Annual Report – by March following the prior fiscal year

In addition, the OEA is concerned that the Ontario Energy Board is under intense time pressures to put in place a regulatory framework to allow the regulated distributors to pass on carbon costs directly to consumers, in order to modify consumer behaviour (such as providing full transparency on the customer's bill). The OEB and its stakeholders must have time to properly consider all elements of the regulatory framework in order to ensure a fair and viable transfer of all costs to ratepayers.

The time constraints and process challenges are illustrated in the fact that in order to bill customers for the price of carbon allowances, regulated natural gas distributors will require regulatory approval from the OEB and time to ensure appropriate billing systems are in place to meet a January 1, 2017 implementation date. At a minimum, by July 1, 2016 an interim rate order must be provided by the regulator to recover cap and trade customer emission allowance costs, as it will take six months to make the necessary changes to billing systems.

Another initiative that must be started immediately, and provided with sufficient funding to support both breadth of coverage and clarity of communication, is customer education about the cap and trade program. Polling done by the OEA for its

EnergyConference15 delegates showed that only 11% of those polled said they knew a lot about how the cap and trade program worked. Customer communication will need to explain how cap and trade works, what the role of the natural gas and electricity distributors is, what the costs of the program are for customers and how to identify the costs on their bill, and what initiatives customers can take to mitigate their emissions, since modifying customer behaviour in order to reduce emissions is the purpose of the cap and trade program.

COMBINED HEAT & POWER

Combined heat and power systems (CHP) have successfully been used to improve the efficiency of Ontario industrial and MUSH consumers for many years. Unfortunately, the regulatory proposal as it currently stands demonstrates no recognition of the facility-specific or system-wide benefits of CHP in Ontario, nor the precedent set in other jurisdictions whereby CHP's contribution to energy optimization has been recognized (e.g. under EPA rules, in California etc.). Furthermore, CHP treatment within the cap and trade regulatory proposal represents a significant change in policy direction from that of the last ten years, e.g. as seen in the Ministry of Energy's "Conservation First: A Renewed Vision for Energy Conservation in Ontario" (Conservation First) and the IESO's province-wide Process and Systems Upgrade Program (PSUP), where CHP is incentivized.

Many of Ontario's electricity LDCs are relying on CHP as a means of reducing grid electricity consumption and thereby meeting the conservation targets that the IESO and Ministry of Energy have mandated for them. LDC conservation plans have already been approved by the IESO and are being implemented; if CHP becomes uneconomic as a result of the costs imposed by the cap and trade program there is a significant risk that LDCs will not achieve the mandated seven terawatt-hours of energy savings. Failure to meet conservation targets is highly problematic for LDCs, but would also impact the province's long-term energy planning process, which, under the government's principle of conservation first, relies on CDM resources like CHP in planning energy system needs.

The OEA therefore recommends that the Ministry of the Environment and Climate Change revise the draft regulation specified in the Appendix to accommodate existing and planned CHP through 2020, and also take the time to devise a better mode/method of coverage for CHP facilities under the cap and trade program.

Alternatively, the government should direct the Ontario Energy Board (OEB) and Independent Electricity System Operator (IESO) to recognize the challenge this new policy imposes on CHP and its impact on the LDCs' ability to meet targets contractually defined in their CDM plans, and should thus take such measures as are necessary and sufficient to put all LDCs in the positions they would have been in but for this change in the government's CHP policy.

Further comments will be forthcoming pending the agreed-to provision of incremental information on CHP by the MOECC.

NATURAL GAS-FIRED GENERATORS

The current government proposal is for natural gas distributors to assume responsibility for purchasing emission allowances on behalf of natural gas-fired electricity generators. The apparent rationale for this is to prevent the IESO from having to renegotiate the contracts it holds with electricity generators to allow for a separate pass through of cap and trade compliance costs (since those costs would simply be included in the cost of natural gas).

The OEA objects to the current point of regulation as defined in the regulatory proposal requiring natural gas distributors to acquire allowances for the electricity generation customers for a number of reasons. First, the purported goal (not opening IESO contracts) will in any case not be met, as contract changes will still be required because of such issues as deferral account dispositions and rate adjustments. Second, the process of acquiring allowance for the large natural gas-fired generating stations could likely require a distinct OEB-defined approach due to the end users' very large variable load and challenges associated with ex-post/prospective adjustments for forecast vs. actual costs accrued. Finally, both natural gas-fired generators and natural gas distributors are sophisticated businesses capable of determining amongst themselves the best point of coverage; government should respect that ability and grant these businesses the flexibility to choose an arrangement that works best for them (which in some cases would mean large natural gas-fired generators covering their compliance obligation on their own).

CAP AND TRADE PROGRAM DESIGN

Transparency in the cap and trade program remains a key priority for the OEA. One of the purposes of the program, as set out in Bill 172, is to encourage behavioural changes in Ontario consumers/emitters of greenhouse gasses. While many large industrial consumers with direct compliance obligations will be aware of the cost of cap and trade, smaller commercial and residential consumers will not be – unless cap and trade costs are reflected clearly and transparently on consumers' bills. Without the knowledge of how much their emissions are costing them, Ontario consumers will have limited ability or incentive to change their behaviour and emission patterns. The OEA would therefore like confirmation from government that cap and trade costs must be made obvious to consumers on their bills in order to meet the purpose of Bill 172. In particular, smaller commercial and residential customers need to be informed about the goals and impacts of the Ontario cap and trade program so they can respond and engage in a meaningful manner. This needs to occur in advance of related costs being presented on energy bills.

As noted above with respect to timelines, other important aspects of the program design that still lack considerable detail include the number of allowances that will be free allocated in the 2017-2020 compliance period, a comprehensive action plan, and the reporting mechanism for the Greenhouse Gas Reduction Account.

In addition to the challenges posed by a 2017 start date, continued uncertainty around Ontario's participation in WCI creates a significant administrative burden for a number of OEA members. Until Ontario formally applies as new entrant to the broader WCI market and the WCI formally reviews and accepts (or declines) Ontario, those with significant compliance exposure will need to develop two compliance plans and pathways: one under an Ontario alone market and another under the WCI.

This uncertainty also means that the draft regulation must accommodate a scenario where Ontario does not join WCI; in particular, it is imperative that holding limits and purchase limits be high enough to accommodate natural gas and other fuel distributors' purchase of allowances on behalf of their customers in the event that a broader supply base (from WCI) is not available.

Of vital importance is the government's modelling, particularly with regard to free allocation, where and when in the economy emissions reductions will occur, at what price, and how many allowances will therefore need to be purchased from California

(and what the consequent transfer of wealth out of Ontario will be). The information above must be provided not only for the 2017-2020 period but also 2021-2023 and through to 2030 to enable the appropriate long-term certainty and planning required to deploy capital and infrastructure to meet current and future compliance obligations and targets.

The OEA is disappointed that the government has not provided this important information earlier nor extended the comment period for both Bill 172 and the regulatory proposal once it became apparent that release of this data would be delayed; the notion of government finalizing (or nearly finalizing) important details of the cap and trade program without having all the data necessary to inform policy decisions is highly problematic.

Please therefore note that further comments will be forthcoming pending the release of agreed-to information from the MOECC related to modelling carried out in mid-2015.

OEA Proposed Amendments to

ONTARIO REGULATION

proposed to be
made under the

PROPOSED CLIMATE CHANGE MITIGATION AND LOW-CARBON ECONOMY ACT, 2016 (BILL 172)

THE CAP AND TRADE PROGRAM

Attribution of emissions

3. (1) For the purposes of section 13 of the Act, the prescribed activity is one of the following:

1. All activities set out in Table 2 of the Reporting Regulation that are engaged in at a single facility.
2. Electricity importation.
3. Natural gas distribution.
4. Petroleum product supply.

(2) Subject to subsection (4), the amount of greenhouse gas emissions relating to an activity mentioned in subsection (1) that is attributed to a capped participant for a year is the following:

1. The participant's verifiable emissions amount in respect of the activity, if a positive or qualified positive verification statement has been issued in respect of the report in which the verifiable emissions amount is set out.
2. The amount determined by the Director under subsection (3) in respect of the activity.

(3) For the purposes of paragraph 2 of subsection (2), the Director shall determine the amount of greenhouse gas emissions attributed to the participant for a year in respect of the activity based on the information available to the Director if,

- (a) an adverse verification statement was issued in respect of the report in which the verifiable emissions amount in respect of the activity was set out; or
- (b) a revised report setting out the verifiable emissions amount or a verification statement or a revised verification statement in respect of the report in which the verifiable emissions amount was set out was required to be given to the Director and was not given to the Director.

(4) The amount of greenhouse gas emissions attributed to a capped participant relating to a prescribed activity is zero for the following years:

- 1. In the case of a mandatory participant who was not required under the Reporting Regulation to give a report to the Director in 2016 with respect to greenhouse gas emissions in 2015 and to have the report verified, except where such mandatory participant is a person who engaged in natural gas distribution in 2016, each of the subsequent first two consecutive years in which the participant was required to give a report and to have the report verified.

Mandatory participants

14. (1) Each of the following persons is required to register as a mandatory participant under paragraph 2 of subsection 15 (1) of the Act.

- 1. A person who is exempt from section 7.6 of the Reporting Regulation under section 26 of that regulation.

2. A person who was required under the Reporting Regulation to submit a report and verification statement in 2016 with respect to greenhouse gas emissions in 2015.

(2) Subject to subsection (3), a person shall register as a mandatory participant no later than September 1 in the first year in which the person is required to submit a verification statement.

(3) A person mentioned in paragraph 1 or 2 of subsection (1) shall register on or after July 1, 2016 and no later than November 1, 2016.

(4) The owner or operator of a facility that meets all of the following criteria is exempt from subsection 15 (1) of the Act in respect of the facility:

1. The primary activity engaged in at the facility is electricity generation within the meaning of the Reporting Regulation.
2. No products are produced at the facility other than electricity and any heat, steam or by-product gas.
3. The facility does not receive natural gas directly from an international or inter-provincial natural gas transmission pipeline.
4. No electricity is generated at the facility from the incineration of waste.

(5) The Ministry of Environment and Climate Change shall publish a list of approved mandatory participants by November 15, 2016.

Voluntary participants

15. (1) For the purposes of paragraph 1 of subsection 16 (1) of the Act, a person mentioned in that paragraph may apply for registration as a voluntary participant in the cap and trade program if the person is the owner or operator of a facility at which an activity set out in Table 2 of the Reporting Regulation is engaged in and the person provides two positive verification statements in respect of the two most recent reports given to the Director by the person under that regulation.

(2) Deleted.

(3) A person mentioned in paragraph (1) shall register as a voluntary participant on or after July 1, 2016 and no later than November 1, 2016. The participant is obligated to participate in the program until the end of the compliance period.

(4) The Ministry of the Environment and Climate Change shall publish a list of approved voluntary participants by November 15, 2016.

Market participants

16. (1) A person who is not an employee of a mandatory or voluntary participant may apply to the Director for registration as a market participant in the cap and trade program under subsection 17 (1) of the Act.

(2) A person mentioned in paragraph (1) shall register as a market participant on or after July 1, 2016 and no later than November 1, 2016.

(3) The Ministry of Environment and Climate Change shall publish a list of registered market participants by November 15, 2016.

Holding limits, current vintage emission allowances, etc.

21. (1) This section applies in respect of the following:

1. Current vintage emission allowances.
2. Ontario emission allowances that are classified as Category A, B or C.
3. Ontario early reduction credits. **[MOECC Note: See Appendix for further information on early reduction credits.]**

(2) Subject to subsection (3), the total number of emission allowances and credits mentioned in subsection (1) that are held in a participant's cap and trade accounts at any time in a year, or

in the cap and trade accounts of participants who are related persons at any time in a year, shall not exceed the greater of the limit determined by applying the following formula:

$$HL = 2,500,000 + 0.025 \times (C - 25,000,000)$$

Where,

HL = the limit on emission allowances and credits mentioned in paragraphs 1, 2 and 3 of subsection (1) that are held in the cap and trade accounts during a year,

C = the number of Ontario emission allowances created under section 34 for the year or the emissions estimate for the year based on the most recent verified emissions report available.

Purchase limits

48. (1) A capped participant or a group of capped participants who are related, excluding natural gas distributors, shall not purchase more than 25 per cent of the Ontario emission allowances available at an auction.

(1.1) A capped participant or a group of capped participants who are related and include a natural gas distributor shall not purchase more than 40 per cent of the Ontario emission allowances available at an auction.

(2) Capped participants who are related shall allocate the purchase limit set out in subsection (1) among themselves.

(3) A capped participant who is a related person shall not purchase more than the share of the purchase limit allocated to the participant in accordance with subsection (2).

(4) A market participant or a group of related market participants shall not purchase more than four per cent of the Ontario emission allowances available at an auction.

(5) Market participants who are related shall allocate the purchase limit set out in subsection (4) among themselves.

(6) A market participant who is a related person shall not purchase more than the share of the purchase limit allocated to the participant in accordance with subsection (5).

(7) If a group of related persons includes at least one capped participant and one market participant, the total purchased by the group at an auction shall not exceed 25 per cent of the Ontario emission allowances available at the auction.

(7.1) If a group of related persons includes at least one capped participant, who is a natural gas distributor, and one market participant, the total purchased by the group at an auction shall not exceed 40 per cent of the Ontario emission allowances available at the auction.

Minimum price

50. (1) The minimum price of an emission allowance in auction year 2017 is determined by applying the following formula:

$$MP_{2017} = 12.82 \times (1 + 0.05 + Ir)$$

Where,

MP_{2017} = the minimum price for an emission allowance in auction year 2017,

Ir = the change in Consumer Price Index for Ontario for the 12-month period ending on September 30, 2016, as published by Statistics Canada under the Statistics Act (Canada).

(2) The minimum price of an emission allowance in an auction year after 2017 is determined by applying the following formula:

$$MP_y = MP_{(y-1)} \times (1 + 0.05 + Ir)$$

Where,

MP_y = the minimum price for an emission allowance in auction year y ,

$MP_{(y-1)}$ = the minimum price for an emission allowance in the auction year immediately preceding year y ;

Ir = the change in Consumer Price Index for Ontario for the 12-month period ending on September 30th of the year immediately preceding year y , as published by Statistics Canada under the Statistics Act (Canada).

Price

59. (1) The price of an Ontario emission allowance classified as Category A in 2017 is determined by applying the following formula:

$$P_{2017} = A \times (1 + 0.05 + Ir)$$

Where,

P_{2017} = the price for a Category A allowance in 2017,

A = **[MOECC Note: Sale price posted by Quebec for a reserve emission unit in Category A in 2016; this will be a dollar value],**

Ir = the [change in](#) Consumer Price Index for Ontario for the 12-month period ending on September 30, 2016, as published by Statistics Canada under the Statistics Act (Canada).

(2) The price of an Ontario emission allowance classified as Category B in 2017 is determined by applying the following formula:

$$P_{2017} = B \times (1 + 0.05 + Ir)$$

Where,

P_{2017} = the price for a Category B allowance in 2017,

B = **[MOECC Note: Sale price posted by Quebec for a reserve emission unit in Category B in 2016; this will be a dollar value],**

Ir = the [change in](#) Consumer Price Index for Ontario for the 12-month period ending on September 30, 2016, as published by Statistics Canada under the Statistics Act (Canada).

(3) The price of an Ontario emission allowance classified as Category C in 2017 is determined by applying the following formula:

$$P_{2017} = C \times (1 + 0.05 + Ir)$$

Where,

P_{2017} = the price for a Category C allowance in 2017,

C = **[MOECC Note: Sale price posted by Quebec for a reserve emission unit in Category C in 2016; this will be a dollar value],**

Ir = the **change in** Consumer Price Index for Ontario for the 12-month period ending on September 30, 2016, as published by Statistics Canada under the Statistics Act (Canada).

(4) The price of an Ontario emission allowance classified as Category A, B or C in each year after 2017 is determined by applying the following formula:

$$P_y = P_{(y-1)} \times (1 + 0.05 + Ir)$$

Where,

P_y = the price for an emission allowance of the relevant category in year y ,

$P_{(y-1)}$ = the price for an emission allowance of the relevant category in the year immediately preceding year y ,

Ir = the **change in** Consumer Price Index for Ontario for the 12-month period ending on September 30th of the year immediately preceding year y , as published by Statistics Canada under the Statistics Act (Canada).

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Let's unravel complex energy challenges, together.