

Cap and Trade Design Options Up for Comment

By Yadira Flores, J.D., B.A.

Earlier this year we published a newsletter reporting on the Ontario Government's decision to implement a cap and trade program. Since that time, the Ontario Government has posted proposed Cap and Trade Design Options ("Design Options") on the environmental registry ("EBR") for public comment. The Design Options are open for comments until December 16, 2015 and can be accessed at the following link: <http://www.ebr.gov.on.ca/ERS-WEB-External/displaynoticecontent.do?noticeId=MTI2NTI2&statusId=MTkwOTcw&language=en>

Some key highlights of the feedback and commentary sought by the Ministry of the Environment and Climate Change include:

- Industry experience of linking the carbon emissions trading regime with other jurisdictions;
- Feedback on proposed start date options (January 2017 versus 2018) with a three year compliance period, taking into consideration that a later start date would require a steeper decline in annual caps;
- Feedback on what the optimal times are to impose compliance obligations for new facilities versus existing facilities;
- Queries on whether more sectors should be covered by the cap and trade program than are currently included;
- Questions on what the best point of regulation is for various sectors;
- Queries on how the government should treat combustion emissions (e.g. emissions from the combustion of fossil fuels) versus fixed process emissions (e.g. emissions from industrial processes involving chemical or physical reactions);
- Queries on whether there should be opt-in options for emitters that don't exceed the current 25,000 tonnes threshold. If so, should opt-in entities be permitted to opt out?;
- Feedback on current proposed approaches to address carbon leakage;
- Feedback on enforcement powers. For instance, what additional enforcement tools should Ontario consider to ensure compliance with program rules?

We encourage our clients to commence the planning and adaptation process as early as possible to assure a successful transition. There may be opportunities for your organization to benefit from offset credits or as an offset project. Should you or a member of your organization have any questions on the Government's proposed Design Options or on what strategic steps your organization can take to best prepare for cap and trade, please feel free to contact us.



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