

# Climate Change Policy & Sustainability Update

## US Advances Air Pollution Rules; Canada Soon to Follow

US regulators are driving significant action on air pollution from the country's power sector. The Environmental Protection Agency (EPA) is advancing standards to limit heavy metals, acid gases and other pollution from power plants with [Mercury and Air Toxics Standards](#) (MATS), complementing the [Cross-State Air Pollution Rule](#) (CSAPR, see *US Air Quality Rule Stayed*, pg. 2).

MATS are an umbrella description for Maximum Available Control Technology (MACT) Rules for certain types of carcinogenic air pollution, known as Hazardous Air Pollutants (HAPs). MACT standards aim to reduce emissions to a minimal level while still considering the cost of those reductions.

For MATS, coal- and oil-fired power plants with capacity over 25 MW must limit their HAP emissions by January 2015.

The EPA released the final MACT rule in December 2011, largely unchanged from the initial proposal. From the over 900,000 public comments received on the draft, the key (though limited) changes include adjustment of some emissions limits and improved monitoring provisions.

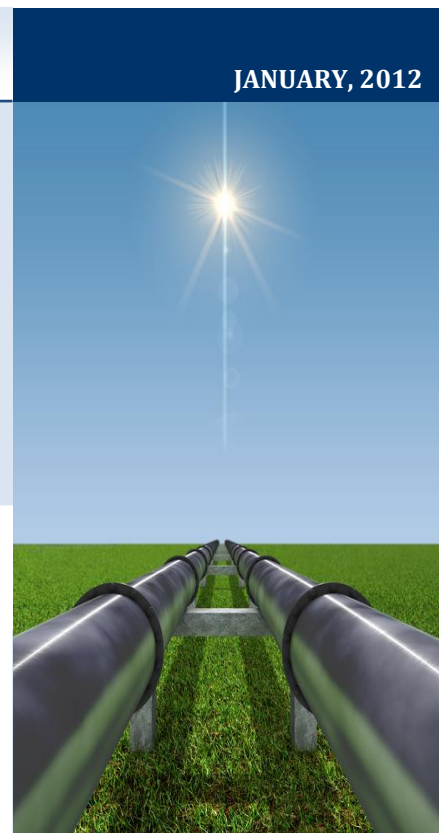
Speculation on the rule's impact has been extremely varied, from limited to game-changing for power plant operators. Affecting approximately 600 power plants, the standards are projected to prevent 90% of mercury from coal burned in power plants from being emitted, 88% of acid gas emissions, and just over 40% of sulphur dioxide emissions over and above CSAPR.

Some observers believe that power producer-owned coal plants that are over 30 years old, not scrubbed and with nameplate capacity less than or equal to 350 MW will become candidates for retirement. The EPA and Department of Energy suggest 4.7 GW of the over 1,000 GW of US generating capacity (i.e. less than 0.5%) will be shut down by 2020 due to the rules.

The EPA's air pollution standards are arriving at the same time as Canadian federal and provincial governments are designing the AQMS, the [Air Quality Management System](#). Similar to the MATS umbrella over MACT rules, AQMS acts as an overarching policy for Base Level Industrial Emission Requirements (BLIERs): qualitative or quantitative air pollution emission standards for particular processes, facilities or pieces of equipment at industrial Canadian emitters.

BLIERs development is ongoing. Working groups have been established for eligible sectors (e.g. electricity, upstream oil & gas), allowing regulators and private sector representatives to collaborate in establishing standards. Regulatory development efforts were recently extended, however, the activity is expected to wrap-up in 2012.

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## The Rise of the Socially Responsible B Corp

On the heels of highly-publicized B Corp certifications in the US and Canada, a new class of businesses –the [Certified Benefit Corporations](#) (B Corps) – is quickly gaining momentum in North America. The classification offers companies the [potential](#) for increased profits and investment and press coverage, while preserving corporations’ missions and generating a push for impact investing.

B Corps expand on the for-profit fiduciary duty to maximize financial returns to shareholders, while extending their legal business responsibilities to stakeholders, [institutionalizing](#) social and environmental considerations.

[Certifications](#) are up by more than 75 % from 2009 to 2010, representing 370 B Corps. In Canada, the [MaRS Centre for Impact Investing](#) serves as the local hub for the [28 Canadian Certified B Corps](#), three of which have well surpassed B Corp’s [benchmark for certification](#), achieving top Composite B Scores: [The Sustainability Advantage](#), [Better The World](#), and [Enviro-Stewards Inc.](#) While no current Canadian federal or provincial legislation proposes or redefines incorporation to levels of B compliance, US states are formalizing the identification and it is a legislative possibility in Canada as momentum increases.

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*See the last page of this month’s Policy Update for the first in our series of analyses on the developing relationship between sustainability & innovation for Canadian industry*

### US Air Quality Rule Stayed

A mere 48 hours prior to the [Cross-State Air Pollution Rule’s](#) (CSAPR) slated initiation, on December 30, 2011 the US Court of Appeals for the District of Columbia Circuit granted a [stay order](#) pending the review of the Rule’s validity.

If implemented, CSAPR would require 28 states to reduce power plant air pollutant emissions. The judgment to stay the rule, has been regarded as a victory for those parties concerned with meeting their 2012 CSAPR obligations and the 45 petitioning parties alike. The EPA maintains that the rule will be upheld.

With a final decision delayed until later this year, the order adds to regulatory uncertainty in power markets, holding [implications](#) for compliance and market planning in the year ahead.

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## Durban: An Agreement to Agree... and More

Though negotiations extended into the 11th hour in Durban, South Africa, the United Nations [COP 17](#)’s results far exceeded expectations as negotiators came to an agreement shaping the next steps for international legally binding greenhouse gas (GHG) reduction targets. Some of the major outcomes include:

**Durban Platform:** The [Durban Platform for Enhanced Action](#) is a commitment by developing and developed nations to create and enter into a binding agreement before 2015 to reduce GHGs, to come into force before 2020. The Platform, which will replace the Kyoto Protocol, is a roadmap for future, binding international action to reduce absolute GHG emissions. To design this agreement, an ad hoc working group will be established and will begin planning in the first half of 2012.

**Green Climate Fund:** A significant secondary result is the continued development of [the Green Climate Fund](#). The Fund was a product of 2009’s [COP 15](#) in Copenhagen; however, delegates in Durban approved the Fund’s organizational structure, to be established in the spring of 2012. The Fund’s associated Transitional Committee will have a 24-member Board, consisting of 12 representatives each from developing and developed countries. The Board will determine where money will be allocated.

**CCS and CDM:** A lesser-noted outcome from Durban was the design of procedures for including [carbon capture and storage \(CCS\)](#) as a potential offset type under the [Clean Development Mechanism \(CDM\)](#). This is a major accomplishment which may lead to CCS being leveraged under other carbon markets.

Durban’s inclusion of developing countries means it captures major emitters like India and China. China’s willingness to accept binding targets by 2020 is also notable, as previous expectations did not have the [world’s top](#) GHG emitter accepting such targets until closer to 2030.

Post-Durban, key opportunities emerge for the private sector and other stakeholders, including the potential to contribute perspectives, solutions and concerns into the Platform development process and to anticipate, prepare for and inform future legislation.

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## Scrutiny Continues Toward Fossil Fuel Subsidies

In 2009, Prime Minister Stephen Harper and other G20 leaders [promised](#) to phase out “inefficient fossil fuel subsidies” over the “medium term.” This [commitment](#) was reaffirmed nearly verbatim at the 2010 G20 summit in Ontario, and rumblings have continued into recent months – including in President Obama’s State of the Union [address](#) on January 25. Since the formal proclamation, Canada’s federal government has not made any new vows to phase out tax incentives and subsidies related to the country’s fossil fuel production. This silence from the federal level is notable as the Conservatives have gained control of Parliament (with last year’s election of a Conservative majority); however, at the time of the 2009 announcement the party was limited by their minority control of the House.

Federal subsidies are [estimated](#) to be about \$1.4 billion annually, and the total [doubles](#) when including provincial provisions. This amounts to less than 1 % of federal expenditures. Subsidies represent about 5.2% of production value in Alberta, Saskatchewan and offshore Newfoundland and Labrador.

The potential implications of subsidy phase-outs are significant. As recently as January 2012 the International Energy Agency released estimates that complete phase-out of global fossil fuel subsidies would lower energy demand by almost 6% by 2020.

With statements like those from G20 events and respected international research bodies, the Canadian government is cooperating with global partners related to fossil fuel subsidy reduction. However, given the current political climate and Conservative majority government it is not expected that significant cuts will be made in the near-term.

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## 2011 Finds Record US Energy Efficiency Investments

Despite the turbulent global economy, 2011 saw record investment figures in the US for energy-efficiency programs and renewable energy. Chief executive of [Bloomberg New Energy Finance](#), Michael Liebreich, is confident that the news “will reassure those who worried that it was falling behind other countries.”

According to [recent report](#), US investment in energy-efficiency programs is up by 25% over 2010 investments, positioning the country to meet its target of \$12 billion by 2020. This increase can be attributed to the growing number of energy-efficiency standards across the nation, allowing the 2011 ratepayer investment in efficiency measures to reach \$6.8 billion.

On the renewable energy front, a [record](#) investment of \$260 billion in 2011 has allowed for clean energy investment in the US to [outpace](#) China for the first time since 2008. The rise was driven by spending on solar developments, soaring by 36%, well exceeding wind power investments. Four US organizations were among the 12 leading clean energy investors recognized globally in the 2011 league table [results](#).

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## Sustainability and Innovation

*Innovation has been and continues to be a focus for many Canadian companies. The investment strategies and mechanisms employed in pursuit of innovation have been as varied as the motivations themselves. The Delphi Group tracks a number of developments in corporate innovation and sustainability. The exciting news is that there is far more going on here that we can cover in a single article, so stay tuned for further articles on this topic.*

Innovation is by no means new to Canadian industry; however, its role in sustainability is becoming a focus for key sectors of the economy. Examples of technology and process improvements are plentiful among large Canadian industrial sectors. Historically, the rationale for innovation has been contributions to the financial bottom line through enhanced production, cost reduction and threat of substitution. While these innovations frequently generated environmental or social benefits, these were rarely the focus of the innovation with the possible exception of efforts to improve health and safety.

More recently, sustainability has become a focal point of innovation activity. This can, at least in part, be explained by the presence of institutions such as Sustainable Development Technology Canada ([SDTC](#)) that have actively sponsored innovation to address pressing environmental issues while enhancing competitiveness for many key sectors in Canada's economy. There are other explanations in addition to SDTC's role which will be explored in this article and a series of future articles in this publication. For this piece we have highlighted the mining sector.

One organization that recently joined the Canadian innovation spectrum is the Canadian Mining Innovation Council (CMIC). One of CMIC's principle goals noted in their 2008 [strategy document](#) was "there is a need for technological solutions to advance sustainable mining, meet environmental standards and regulations, reduce costs, increase the value added, and protect the health and safety of workers." Full accounts of CMIC's objectives are noted [online](#), including links between innovation and sustainability as well as recruitment.

Mining companies are increasingly bringing environmental and social innovations to the forefront of their sustainability efforts. The connection between a company's investments in innovation is now being seen as important to a company/sector's license to operate. A second equally important rationale for the link is to improve recruitment. The application of high technology as a means to improve operational efficiency, health and safety and environmental performance is a storyline that could help to improve recruitment with areas such as computer-assisted planning and management, use of robotics, and next generation extraction techniques as leading applications. This is an important step for a sector that is battling perceptions of an unsustainable and low-technology practice.

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