

Climate Change Policy Update

Environment Minister Changes Tack, Will Sail to Copenhagen Without a Map

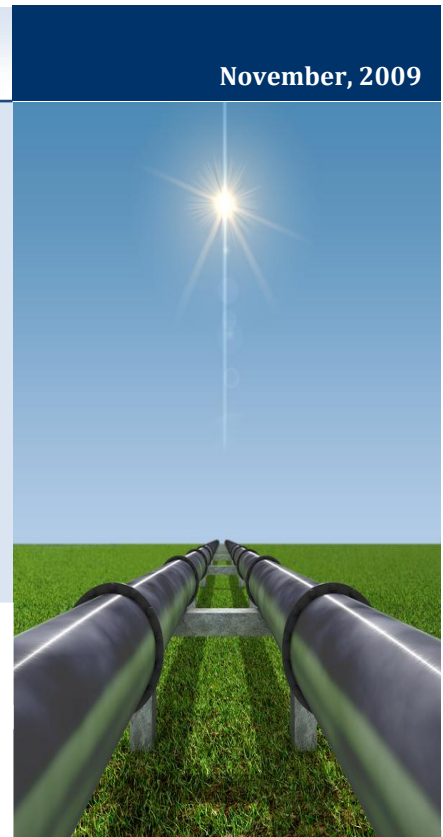
It turns out that promise-keeping is not Environment Minister Jim Prentice's forté. Despite saying in early September that his ministry would "ensure that all of our domestic climate change policies are clearly enunciated to the Canadian public by the time we get to Copenhagen", the minister said on November 2nd that GHG regulations would not be announced before December's international climate change conference.

Instead, Prentice is changing tack by focusing on clean air regulations rather than greenhouse gas regulations. Examples of substances that would fall under clean air legislation include Criteria Air Contaminants such as small particulate matter, acid rain-causing emissions like sulphur dioxide, and volatile organic compounds (VOCs), while substances that would fall under climate change legislation include the six major global warming gases (carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, hydrofluorocarbons, and perfluorocarbons).

In dealing with clean air legislation, the government has re-engaged with a "tripartite group" of representatives on health and the environment, hailing from industry, NGOs, and the provincial governments. The group submitted a [draft proposal](#) to the federal government in February called the Comprehensive Air Management System (CAMS), which was supposed to be "an alternative to the government's 2007 Turning the Corner Plan." The draft, however, contains no reference to greenhouse gases, which was one of the main purposes of Turning the Corner.

Within CAMS is a working group called the Base Level Industrial Emissions Requirements (BLIERS) "What" group. The BLIERS "What" group is charged with developing base level emissions requirements for 11 industry-specific sub-groups. The group seeks to build on already-established work, such as the Turning the Corner Plan, national voluntary frameworks, and anything else deemed relevant to managing air emissions. It should be reiterated that no mention of greenhouse gases were in the CAMS draft proposal, so the work coming from the BLIERS "What" group will most likely relate to clean air rather than climate change.

One reason for this change in focus is because the federal government does not want to advance Canadian climate legislation in the absence of American rules. Under draft US legislation, "border adjustments" or carbon tariffs could be slapped on imports from countries without equivalent climate rules in order to protect American firms from unfair competition from jurisdictions with less... *Continued on next page*



Contents

Environment Minister Changes Tack, Will Sail to Copenhagen Without a Map	1&2
Why Nova Scotia Extended its Renewable Energy Deadline	2
Boxer-Kerry Bill Passes Despite GOP Boycott	2
EPA Releases Mandatory Reporting Rule	3

stringent (and therefore less costly) rules. Without knowing what the final US legislation will be, the government is nervous about exposing domestic industries to border adjustments should Canada's legislation end up being too weak, and is likewise reluctant to unfairly penalize domestic industry with legislation that is too stringent. It therefore seems likely that the government will wait until US rules are passed, and then harmonize with them.

Another reason for the change in position stems from a general reluctance on the part of the government to make serious advances on the climate file because of a

lingering belief that the returns from investing in climate protection do not outweigh the costs. Minister Prentice reiterated this belief in late September when he said that "if you want to reduce your carbon emissions, there's a very easy way of doing it. You move yourself down the standard of living index."

Overall, it seems that Canadian legislators are set to follow the United States' lead on climate change legislation, and it is highly unlikely that the US will have legislation passed before December's meeting in Copenhagen. Canada will likely have to endure more international scorn for its

waffling position at the international negotiations, but sources indicate that the government is willing to shoulder the criticism and deflect some of it by pointing to its advancing clean air regulations. Since clean air regulations and greenhouse gas regulations elicit similar imagery like smokestacks and tailpipes, there is a healthy chance that public confusion over the difference between clean air and greenhouse gases will soften the public's perceptions of the domestic and international criticism directed at the government over its climate change position.

By Jeff Beyer jbeyer@delphi.ca

Boxer-Kerry Bill Passes Despite GOP Boycott

The US Senate Environment and Public Works Committee voted in favour of the Boxer-Kerry climate bill despite non-participation from the Republicans on the committee. The committee had enough votes to pass the bill in their absence, and did so on November 5th.

The controversy began when the EPA decided not to run a full economic impact analysis of the bill since the bill is 90% identical to the Waxman-Markey climate bill, and because the run would be expensive (\$135,000) and time consuming (1600 hours). The GOP requested that the EPA run a full analysis anyway, and refused to come to committee until it was complete.

Chairwoman Barbara Boxer defended the unilateral process, and said that "majorities are there to be used when the majority feels it is in the best interest of their states and of the nation to act."

The bill's passage advances the Senate's response to the House's Waxman-Markey bill, and puts the US one step further along the long path to adopting climate legislation.

By Jeff Beyer

Why N.S. Extended its Renewable Energy Deadline

Independent power producers in Nova Scotia got some wind back in their sails with an October 9th [announcement](#) from the NS Department of Energy. After [amending](#) Nova Scotia's 2007 [Renewable Energy Standards Regulations](#), Minister Estabrooks declared that Nova Scotia Power Inc's (NSPI) short-term Renewable Portfolio Standards (RPS) requirement would be pushed back by one year, to Dec. 31st, 2011.

Nova Scotia's Department of Energy was faced with a challenging situation. It had passed a law in 2007 that included a RPS requiring NSPI to ensure 5% of its electricity sales were generated by renewable sources from independent power producers (IPPs) by the end of 2010, on top of its already-existing clean energy mix, estimated to be about 10% in 2001. If NSPI failed to comply with the RPS by 2010, it would have to make up double the shortfall in the following year, and if it failed to do that, the utility faced fines of \$500,000 per day. Taking the charge seriously, NSPI tendered contracts for renewable energy from IPPs worth nearly double what it would need to fulfill its RPS obligation. IPPs responded and many contracts were signed.

Then the recession struck. Capital markets dried up, and capital-intensive wind power projects had difficulty securing financing at the same rates they were promised in 2007. Tight money markets meant that some project proponents couldn't profitably deliver on their commitment to NSPI. They could therefore either renegotiate their contracts, resulting in higher costs for both NSPI and the average electricity-using Nova Scotian, or pull out altogether.

NSPI didn't want to face penalties for failing to meet its RPS requirement due to reneging IPPs, nor did it want to renegotiate old contracts or tender new ones with shortened timeframes and higher costs. IPPs didn't want to shut down good projects because of time-addled financing constraints. And the government didn't want to miss its targets or burden Nova Scotians with unnecessarily expensive electricity bills.

So to smooth things out, Minister Estabrooks extended the renewable energy deadline. IPPs now have the opportunity to secure financing at rates closer to what they expected in 2007 and make good on their contracts. NSPI can meet its RPS requirements and avoid stiff penalties. And Nova Scotians can get reasonably priced clean energy, and contribute to preserving their beautiful shorelines from the consequences of global warming.

By Jeff Beyer jbeyer@delphi.ca

The Delphi Group



428 Gilmour Street
Ottawa, ON, K2P 0R8
613 562 2005
hroberts@delphi.ca

196 Spadina Ave, Suite 402
Toronto, ON, M5T 2C2
647 727 4726
spacifico@delphi.ca

*Environmental Strategies,
Business Solutions*

Find us on the Web:
www.delphi.ca



Disclaimer:

The information, concepts and recommendations expressed in this document are based on information available at the time of the preparation of this document. Action or abstinence from acting based on the opinions and information contained in this document are the sole risk of the reader and Delphi shall have no liability for any damages or losses arising from use of the information and opinions in this document. All information is provided "as is" without any warranty or condition of any kind. The document may contain inaccuracies, omissions or typographical errors.

EPA Releases Mandatory Reporting Rule

Bean counters in the US just got busier. On September 22nd, the US Environmental Protection Agency (EPA) declared that certain entities must measure and report their greenhouse gas emissions levels. Covered entities have to start measuring their annual facility-level emissions starting on January 1, 2010, and must provide their first report to the EPA by March 31, 2011. The announcement affects any facilities based in the US, even if they're foreign-owned.

This massive data collection exercise is seen as the first step toward implementing a carbon trading system, but doesn't actually require any facilities to reduce their emissions. US administrators learned from failures in the European Union's Emissions Trading Scheme, which saw carbon prices collapse after allowances were over-allocated due in part to poor baseline information. The US is eager to avoid a similar outcome when its own system eventually comes online. Additionally, the Canadian federal government continues to signal its intention to harmonize its climate policies with the US to avoid punitive measures under the US's proposed "border adjustments program." As such, specifics like reporting thresholds, covered sectors, and GHG quantification methods announced by the EPA might be seen as a minimum future requirement for Canadian firms as well.

The EPA stated that facilities subject to the rule include those annually releasing in excess of 25,000 tonnes of CO₂-equivalent (t-CO₂e), and those that fall into 30 specific sectors (5 "upstream" emissions sources and 25 "downstream" sources). For comparisons sake, the current draft of the US House climate legislation requires reporting from entities emitting 10,000 t-CO₂e but puts caps on entities emitting 25,000 t-CO₂e, and reporting thresholds for regional schemes like the Western Climate Initiative (WCI) or Midwestern Governors Greenhouse Gas Reduction Accord (MGGRA) are 10,000 and 20,000 t-CO₂e respectively.

The landmark rule will force about 13,000 facilities representing almost 85% of total US emissions to measure and report their emission levels. Since so few companies currently inventory their emissions, the EPA is allowing "best achievable monitoring methods" to be used in place of more accurate monitoring methods that involve specialized equipment for the first quarter of 2010, with some case-by-case exceptions thereafter. EPA is also expecting that mistakes will be made in this first round, and are allowing 45 days to correct mistakes following the March 31, 2010 deadline. Entities are not required to have their reports third-party verified (the system relies on self-certification and the appointment of a "designated representative" responsible for certifying, signing and submitting the reports) but a sophisticated automated system is being used to detect inconsistencies in reporting, and selected on-site audits will be conducted to ensure accurate reporting. If the rules are broken, the EPA has the authority to charge emitters with administrative, civil, and criminal penalties ranging up to \$37,500 per day. Details on EPA's rule can be found at www.epa.gov/climatechange/emissions/ghgrulemaking.html.

By Jeff Beyer jbeyer@delphi.ca