

Legal Implications of Cap-and-Trade

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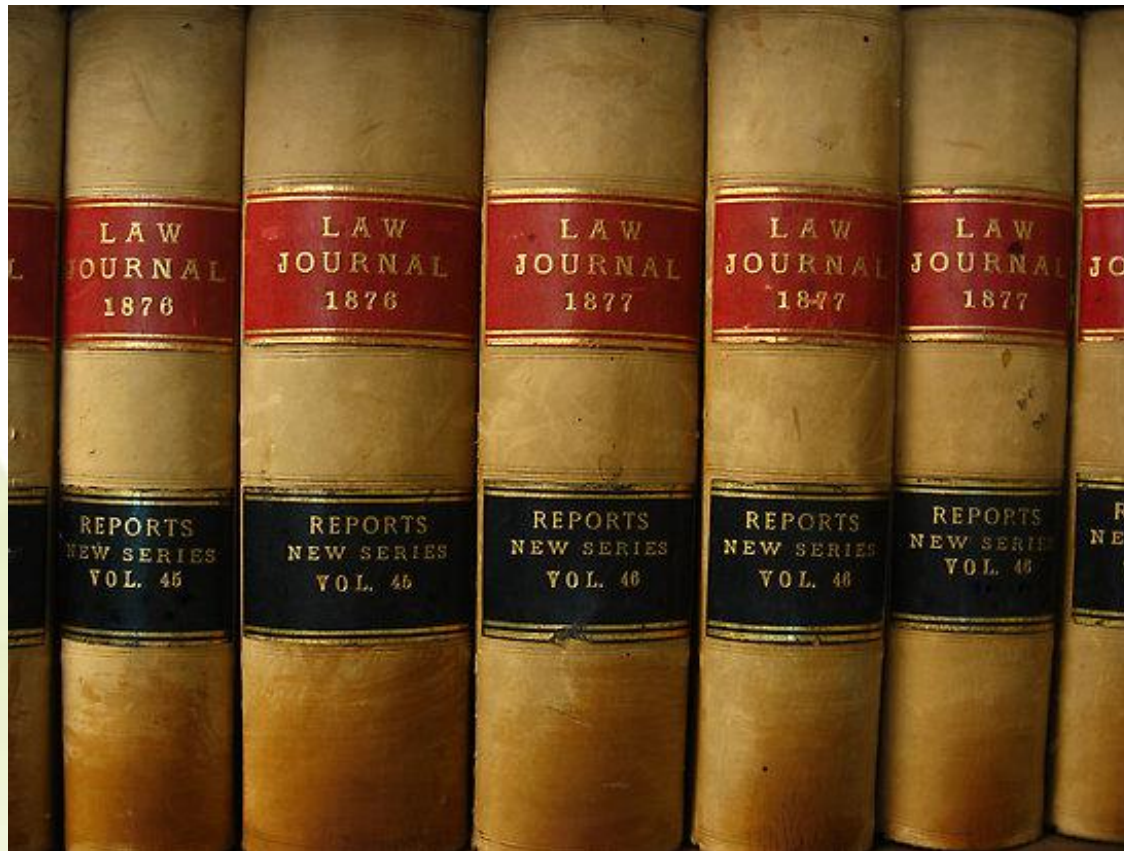
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Overview

- **Framework for Reducing GHGs**
- **Federal**
- **Ontario**
- **What's Next?**

Legal Frameworks



GHG Reduction Frameworks

- **Emissions trading (cap and trade)**
- **Carbon tax**
- **Emissions control regulations**

The Cost of Carbon

- **Quebec carbon trading system**
 - credits auction at \$12.10 USD per tonne
- **Alberta fund/offset/credit system**
 - fund: \$15 CAD per tonne over emissions reductions target
 - increasing to \$20 CAD in 2016, \$30 CAD in 2017
- **BC revenue-neutral carbon tax**
 - carbon is taxed at \$30 CAD per tonne

The Cost of Carbon in BC

Selected Carbon Tax Rates by Fuel

	UNITS FOR TAX	TAX RATE JULY 1, 2012
Gasoline	¢/litre	6.67
Diesel (light fuel oil)	¢/litre	7.67
Jet Fuel	¢/litre	7.83
Natural Gas	¢/cubic metre	5.70
Propane	¢/litre	4.62
Coal - high heat value	\$/tonne	62.31
Coal - low heat value	\$/tonne	53.31

Source: BC Ministry of Finance, September 2015

Federal GHG Reporting



Federal GHG Reporting

- **CEPA Notice for Annual GHGs**
 - facilities emitting ≥ 50 kt of GHGs (CO₂ equivalent)
 - reports due June 1 of following year
 - facility operator must report
 - information made public, but confidentiality may be requested
 - some overlap with NPRI reporting requirements

Federal Action on GHG

- **Regulation**

- automotive regulations reduce allowable GHGs
- performance standards regulations for new and end-of-life coal-fired generation units

Federal Action on GHG

- **GHG regulations expected for various sectors**

Sectors	
Oil and gas	Cement
Iron and steel	Chemical
Fertilizer manufacturing	Pulp and paper
Fossil fuel-fired electricity generation	

- **Waiting on draft regulations**
- **Equivalency**

Ontario's Approach



Ontario's GHG Reporting Requirements

- **Greenhouse Gas Emissions Reporting Regulation, O Reg 452/09**
- **Applies to prescribed facilities**
- **Prescribed facility examples:**

Hydrogen production	Lime manufacturing
Iron manufacturing	Nickel production
Steel manufacturing	Petroleum refining
Lead production	Pulp and paper manufacturing

Ontario's GHG Reporting Requirements

- **What must a prescribed facility do?**
 - collect emissions data
 - prescribed facilities emitting ≥ 25 kt/yr of CO₂e required to report
 - annual emissions reporting by June 1 in calendar year following reporting period
 - facilities emitting ≥ 10 kt/yr and < 25 kt/yr encouraged to report voluntarily

Ontario's GHG Reporting Requirements

- **Standardized methods in Guideline must be used for measuring emissions**
- **Third party verification by September 1st of subsequent year**

Ontario's GHG Reporting Requirements

- **Documentation and data must be retained for at least 7 years**
- **Regulation allows CO₂ from biomass combustion to be deducted from total emissions when comparing to reporting threshold**

Ontario's GHG Reporting Requirements

Changes Ahead?

- **Ontario has proposed:**
 - expand scope of “prescribed facilities”
 - ≥ 10 kt/yr of CO₂e required to report
 - ≥ 10 kt/yr and < 25 kt/yr then no third party verification
- **Proposal open for comment until October 29, 2015**

CAP AND TRADE IN ONTARIO

Ontario's Proposed Emissions Trading System

- ***Environmental Protection Amendment Act, (Greenhouse Gas Emissions Trading) 2009***
 - Royal Assent December 15, 2009 – not yet in force
 - regulatory powers to create and monitor cap and trade program that links to other systems
 - definition of GHGs adaptable over time
 - power to create, use, distribute and trade allowances and offsets
 - distribute allowances by auction, free of charge or by other means
 - rules and requirements for fair auctioning of allowances

Ontario's Proposed Emissions Trading System

Announcements to enter Cap and Trade

- **April 13, 2015**
- **Ontario intends to join the cap and trade system under the Western Climate Initiative (Quebec & California)**
- **September 11, 2015**
- **Ontario and Quebec will have a joint system of carbon offsets**

Ontario's Proposed Emissions Trading System

What will the system look like?

- **Scope of emitters**
 - two possible approaches: 1) sector-specific or 2) broad
- **Target Reductions**
 - rate of decline?
 - caps in Quebec & California decline at more than 3% per year
- **Regulation of offsets and allowances**

Ontario's Proposed Emissions Trading System

- **Equivalency with anticipated federal regulations**



Ontario's Proposed Emissions Trading System

Disclosure Impacts

- **EPA Disclosure**
- **Securities Disclosure**
 - impact of the availability and price of emissions credits/offsets on revenue, expenses and cash flow
- **Voluntary Disclosure**
 - public image

Penalties for Non-Compliance

What if an emitter doesn't comply?

- **Offence under Ontario's EPA**
- **Penalties (first offence)**
 - individuals: fine up to \$50,000
 - corporations: fine up to \$250,000
- **Penalties increase with subsequent offences and may include greater fines and/or imprisonment**
- **Directors & Officer's liability**

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