

April 10, 2016

Melissa Ollevier
Ministry of the Environment
Climate Change and Environmental Policy Division
Air Policy and Climate Change Branch
77 Wellesley Street West
Floor 10
Toronto, Ontario
M7A 2T5

Subject: EBR Registry Number: 012-6837 - Cap and Trade Regulatory Proposal and Bill 172

Dear Ms. Ollevier:

The coalition of industry associations listed below appreciate the opportunity to jointly submit comments to the Government of Ontario with respect to the above noted EBR postings regarding Ontario's proposed Cap and Trade Act and Regulation. Industry supports the Government of Ontario overall direction to reduce greenhouse gas emissions.

The coalition of industry associations wrote to the Ministry of Environment and Climate Change on December 16, 2015 in response to the Cap and Trade Design proposal. In addition to responses regarding the detailed design questions we noted two overarching concerns; the need to take the time to "get it right" and, that Ontario industry should not face materially more stringent requirements or associated costs than those imposed in competing jurisdictions. In addition, we requested that the costs of cap and trade (the economic analysis) be communicated with Ontarians. To date, we are not satisfied that these concerns have been addressed and they continue to cause apprehension within the industry sector.

We believe that carbon leakage is a serious policy and economic risk that must be avoided. In this regard we are encouraged by the province's decision to allocate some portion of free allowances in the first compliance period to the end of 2020. While this provides a degree of certainty for the obligated parties under the program, the impacts of higher energy costs to smaller and non-obligated facilities and consumers should be considered. Again, these costs must be clearly communicated with Ontarians.

Trade exposure is a key competitiveness concern for industry in Ontario as we are highly dependent on trade. The proposal to recognize all obligated industries as trade exposed for the first compliance period is appreciated. This provides certainty and additional time for a robust assessment of trade exposure for application in the second compliance period. To avoid carbon leakage the impact of cap and trade on trade-exposed industries should be minimized as much as possible until such time as

similar carbon policies exist in competing jurisdictions. The government should review the risk of carbon leakage by sector at some regular frequency.

The steep cap decline that is proposed (4.57 % per year) adds costs to industry. In the absence of viable technological alternatives and clarity on costs beyond the first compliance period these added costs will detract from capital investment resulting in carbon leakage. If companies are unable to make the necessary reductions, they will simply be transferring funds to government or other jurisdictions participating in cap and trade. This does not achieve the desired result of emissions reductions and reduces the competitiveness of industry in Ontario.

Another key competitiveness concern for industry in Ontario is with respect to electricity. The Ontario government must ensure that the cost of electricity does not increase either directly or via pass through of cost of carbon to trade exposed sectors. We support the statement in Ontario's 2016 budget which notes that Ontario will *"take steps to ensure that the net impact of cap and trade would not result in an overall increase in electricity costs for commercial and industrial consumers"*. This must be true for all industry sectors.

Thank you again for the opportunity to comment on the proposed cap and trade regulations for Ontario. Please contact me should you have any questions.

Sincerely,



Ian Howcroft
VP, CME Ontario

On behalf of the following:

Association of Equipment Manufacturers
Association of Independent Corrugated Converters Canada
Automotive Industries Association of Canada
Business Council of Canada
Canadian Association for Surface Finishing
Canadian Consumer Specialty Products Association
Canadian Corrugated and Containerboard Association
Canadian Foundry Association
Canadian Fuels Association
Canadian Manufacturers & Exporters
Canadian Paint and Coatings Association
Canadian Pipe Fabricators Association
Canadian Plastics Industry Association
Canadian Steel Producers Association

Canadian Transportation Equipment Association
Canadian Vehicle Manufacturers' Association
Chemistry Industry Association of Canada
Electro-Federation Canada
Fertilizer Canada
Ontario Mining Association
Sarnia-Lambton Environmental Association

Cc: Paul Evans, Deputy Minister, Ministry of Environment & Climate Change
Giles Gherson, Deputy Minister, Minister of Economic Development, Employment & Infrastructure
Gillian McEachern, Executive Director, Policy & Research, Office of the Premier

In addition to the general comments above we offer the following specific items for your consideration:

Caps

The reduction targets for the province overall are aggressive and we are concerned about what alternatives/contingency plans exist if the reductions are not realized. What is the balanced Plan B considering the needs of Ontario today and tomorrow? Ontario industry should not face materially more stringent requirements or associated costs than those imposed in jurisdictions in which we compete for production and investment. Carbon leakage is a serious policy and economic risk that must be avoided.

We are encouraged by the province's decision to allocate some portion of free allowances to all obligated industries as trade exposed in the first compliance period to the end of 2020. However, as noted above, the cap decline factor will add costs that competing jurisdictions do not have and will reduce facilities' ability to fund and complete investment.

With investment development cycles averaging 5 years, uncertainty beyond the first compliance period will further inhibit investment decisions.

Like any other piece of equipment at a facility, cogeneration should be considered as part of the overall facility emissions and be fully eligible to receive free allocations similar to emissions from any other part of the facility. Any cogeneration facility that does not export electricity outside the boundary of the manufacturing facility should be eligible for 100% free allowances. Facilities with emissions associated with electricity that is exported outside the fence of a facility should not be eligible to receive 100% free allocations. Another alternative would be to follow the example of the US Environmental Protection Agency and exempt cogeneration emissions entirely from cap and trade.

Compliance Periods

We continue to find the time-table for cap and trade implementation (2017) is ambitious based on our experience in other jurisdictions. We recommend that Ontario look for ways to streamline the administrative burden associated with compliance.

We would reinforce that the government's decision to implement the cap and trade program in 2017 provides minimal lead time for Ontario companies to design and implement administrative compliance regimes. Given this, we would urge government to look at ways to streamline requirements.

We believe that each compliance period should re-assess the risk of carbon leakage by sector to ensure exposed industries are not put at a competitive disadvantage.

Registration Rules

Where flexibility exists we should seek to streamline the registration requirements, in particular for obligated parties. We are supportive of the Government facilitating the participation of clearing houses (Section 17. (5)).

Holding and Purchase Limits

We recognize the establishment of holding accounts for mandatory, voluntary and market participants to prevent a single entity from obtaining too much market power. As noted in Section 21. (1), holding limits are based on a formula related to the amount of the annual cap.

- The Government is asked to provide detail and examples of how holding limits would work (Section 21. (2) - (4)). We ask that the Government describe how the holding limits for current and vintage allowances would work together in order to avoid exceeding a holding limit.

Allocations

We believe that this regime of free allocations should remain in place until such time that the competitiveness conditions change.

We advocate that there should not be a cap reduction factor applied to fixed process emissions until technological advancements provide for feasible alternative processes. Applying cap reduction factors

to fixed process emissions is contradictory to the concept of fixed emissions.

Allowance Reserve

We question if the proposed 5% reserve will be sufficient for growth in Ontario, and to cushion against a spike in allowance prices. We would prefer to see the government set an upper limit on allowance prices for each compliance period and make sufficient allowances available at that price to covered entities that require them.

Offsets

We would like to see more clarity on the availability, rules and use of offset credits. Offsets play an important role in obligated parties' compliance strategies and the lack of clarity on availability, rules is a concern. In addition, the draft regulation limits the amount of offsets that can be used to 8% of a facility's total compliance obligation. We understand in the draft regulation on verification and offsets that this will only be allowed for entities in unregulated sectors. Since industries with a significant amount of fixed process emissions will have very limited opportunities to reduce those emissions in the 5 to 10 year time span, they will need to look elsewhere for real emission reductions. We recommend that the government consider allowing regulated entities to create their own offsets, with a higher limit of 25% of the compliance obligation permitted to be used for their own facility. It is understood that these offsets would need to be outside of the facility's regulated activities and additional to activities mandated by any other legal requirement.

Voluntary Participant Opt-In Threshold

We support the voluntary opting in of facilities in regulated sectors if they do not meet the 25,000 tonnes CO₂e threshold for mandatory participants. The Ministry's proposal limits this to facilities meeting the reporting threshold of 10,000 tonnes. While the proposed 10 000 tonne minimum emission limit for opting in aligns with the reporting threshold, many coalition members question why this minimum could not be as low as 3000 tonnes. It is understood that any facility opting in would need to be bound by both the reporting and cap and trade regulations. Allowing this additional opting in would benefit both government and industry as a higher percentage of GHG emissions would be formally accounted for and subject to the regulated reductions while allowing businesses the opportunity to determine how to most cost effectively meet provincial GHG reduction targets (i.e. by direct participation in cap and trade or through fuel carbon cost allocations).

