

# MILLER THOMSON LLP

Barristers & Solicitors  
Patent & Trade-Mark Agents

Robson Court  
1000-840 Howe Street  
Vancouver, BC Canada  
V6Z 2M1  
Tel. 604.687.2242  
Fax. 604.643.1200  
www.millerthomson.com



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## **Mandatory Reporting of Greenhouse Gas Emissions: Some Recent Developments in Canada**

Tony Crossman  
Charles Bois  
Sarah Hansen  
John Tidball  
Teresa Meadows

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## **Mandatory Reporting of Greenhouse Gas Emissions: Some Recent Developments in Canada**

As North America grapples with the implications of global climate change and a legislative response to reducing greenhouse gas emissions, many Canadian provinces and U.S. States have either begun to implement, or signalled an intention to implement, a cap and trade system to reduce greenhouse gas (GHG) emissions. One of the first steps in implementing such a system is to require the reporting of GHG emissions, which will not only require technical expertise to identify and measure these emissions, but an additional set of administrative resources to ensure compliance with record keeping and reporting requirements. Alberta has had mandatory reporting in place since 2004, while British Columbia will require reporting commencing 2010, and on December 1, 2009 Ontario filed its Greenhouse Gas Emissions Reporting Regulation.

A GHG cap and trade system is one where the government sets a limit or *cap* on the amount of emissions. Emitters are issued (or buy at auction) emission permits or allowances (or credits) and emitters must hold enough allowances for the emissions that they create. Those that increase their emissions must find a way to offset them. One way to do so is to buy credits from others. The transfer of the credit or allowance is the *trade*. The theory is that market forces will determine the most efficient way to reduce GHG emissions – those that can reduce emissions most cheaply will do so, with the ability to sell those emission credits to others who may not be able to reduce emissions as cheaply.

One of the first steps in any cap and trade system is to measure the level of emissions from the various emitters. Alberta was the first Canadian province to establish a provincial greenhouse gas emission regime, though it was based on reducing emission *intensity* rather than the total amount of emissions. As part of this scheme, those emitting more than 100,000 tonnes of CO<sub>2</sub> equivalent (the GHG measurement unit) have had to report emissions since 2004.

Starting January 1, 2010, facilities in British Columbia that emit GHG over 10,000 tonnes of CO<sub>2</sub>E will be required to report annually their GHG emissions to the B.C. Government, which is a considerably lower threshold than Alberta. For those facilities emitting more than 25,000

tonnes of CO<sub>2</sub>E, there is not only the obligation to report the emissions, but also to verify the emissions using an independent accredited third party verifier.

This initiative is the second step in B.C.'s cap and trade system that was introduced through the *Greenhouse Gas Reduction (Cap and Trade) Act* which created a framework for a BC cap and trade system. The BC system is based on, and is intended to be consistent with, the Western Climate Initiative (WCI) a regional cap and trade regime initially started on the U.S. west coast. There are also similarities between BC's new Reporting Regulations and those recently announced by the US Environmental Protection Agency. However, there are also significant differences as well and companies operating facilities in various locations should review the applicable regulations carefully to ensure their emissions data collection and reporting procedures comply with the various regulations.

The new Reporting Regulation sets out the type of greenhouse gases that must be reported, the threshold level of emissions (10,000 tonnes of CO<sub>2</sub>E), the types of facilities required to report, the quantification methods to be used in reporting, how to report, how to verify the emission reporting, and administrative matters such as record keeping and compliance.

The reporting obligation applies to a range of activities including:

- base metal production;
- cement production;
- coal mining from underground mines;
- coal storage at facilities that burn coal;
- electronics manufacturing;
- glass manufacturing;
- industrial wastewater processing;
- petrochemical production and refining;
- pulp and paper production;
- upstream oil and gas;

- natural gas transmission and distribution;
- electricity transmission and distribution;
- oil pipeline transportation.

It is also important to understand the definitions under the Reporting Regulations as they will determine whether and what the facility will be required to report. For example, “linear facilities”, such as the oil and gas gathering and/or processing facilities and distribution, emissions may be aggregated where the facility is “managed or controlled” by the same person (company) to determine whether the facility 10,000 tonne reporting threshold and the 25,000 tonne verification threshold are met. Yet, consider a similar scenario where there are similar numerous facilities, but each facility is managed and controlled by a different person. In this scenario, the facilities would not be aggregated to determine whether thresholds have been met. The Reporting Regulations indicate that a facility need not include and report emissions from “mobile equipment” as part of its annual emissions. However, an operating mine facility will likely need to include and report emissions from its ore hauling vehicles because those vehicles are not considered “mobile equipment” for reporting purposes.

On the face of it, the regulation appears to exempt carbon dioxide produced from biomass from the calculations to determine whether thresholds have been met. However, the biomass fuel source must be composed primarily of wood and must contain minimal amounts of other biomass materials. In addition, the regulation does not exempt biomass wood fuel imported into BC from a jurisdiction that does not consider wood biomass carbon neutral.

The Reporting Regulation does not apply to emissions from landfills that are managed under the Landfill Gas Management Regulation. In addition, the Reporting Regulation only requires facilities to report their direct emissions. There is no requirement to include and report indirect emissions emitted by suppliers of materials or services to the reporting facility. In keeping with B.C.’s participation in WCI, the quantification methods required to be used under the Reporting Regulation are those used by the WCI. However, operators of facilities in various locations in North America should also be aware of the EPA’s reporting requirements and regulations as there are significant differences between those regulations and the WCI regulations.

Annual reporting begins with the 2010 calendar year, and those annual reports are required by March 31 of the following year. For those facilities that are required to report in 2010, and which had greater than 20,000 tonnes of CO<sub>2</sub>E for any of the years 2006 to 2009, they are required to report on those prior years' emissions.

The Reporting Regulation sets out the administrative requirements that businesses must meet, including maintaining records for at least seven years. Although the reported emission information will generally become public information, it is possible to request that certain information remain confidential (in order to protect proprietary information). Companies that fail to comply with these emission reporting requirements may be penalized with fines of up to \$1 million or imprisonment for a term of up to six months, or both.

The Ontario *Greenhouse Gas Emissions Reporting Regulation*, the next step in implementing a cap and trade initiative in this province, was filed on December 1. The regulation applies to facilities in certain sectors including petroleum, electricity, manufacturing and minerals (s. 2(1)) if the facility emits 25,000 tonnes of carbon dioxide equivalent (CO<sub>2</sub>e) or more per year (s. 5(1)). If the regulation applies, then the person who generates the greenhouse gas must:

- use the *standard* quantification methods to quantify emissions, or for 2010 emissions only, use the *best alternative* quantification methods, as outlined in a technical guideline that accompanies the regulation (s. 4(1), (6));
- prepare annual emissions reports and submit the reports to the Director on or before June 1 in the calendar year following the reporting period, beginning with 2010 emissions (s. 5(1)(a)); and
- ensure that an annual verification statement is prepared by an accredited verification body in accordance with ISO 14064 and ISO 14065 and submitted to the Director on or before September 1 in the calendar year following the reporting period, beginning with 2011 emissions (s. 5(1)(b)).

Although smaller emitters (facilities that emit between 10,000 tonnes and 25,000 tonnes) are not required to report under the regulation, the Ministry has announced that it will develop a program to encourage that they report voluntarily. This will enable them to adapt to emerging North American-wide requirements.

Ontario's stated goal is to continue to work with the federal government and other provinces as well as all the WCI Partners to harmonize GHG reporting requirements and methods, especially in light of the US EPA *Final Mandatory Reporting of Greenhouse Gases Rule* which was published in the Federal Register on October 30, 2009 and will be effective December 29, 2009.

For further information or assistance with determining whether the Reporting Regulations apply to your company/facility, please contact:

- Tony Crossman at 604.643.1244, [tcrossman@millerthomson.com](mailto:tcrossman@millerthomson.com); Charles Bois at 604.643.1224, [cbois@millerthomson.com](mailto:cbois@millerthomson.com); or Sarah Hansen at 604.643.1273, [shansen@millerthomson.com](mailto:shansen@millerthomson.com) for British Columbia;
- John Tidball at 905.415.6710, [jtiddball@millerthomson.com](mailto:jtiddball@millerthomson.com) for Ontario;
- Teresa Meadows at 780.429.9706, [tmeadows@millerthomson.com](mailto:tmeadows@millerthomson.com) for Alberta.