



PROJECT BILL 42

May 2009

A publication of Miller
Thomson's Environmental
Group in Montréal

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QUEBEC COULD BE THE FIRST JURISDICTION IN NORTH AMERICA TO ENFORCE A CAP-AND-TRADE APPROACH TO REDUCE GREENHOUSE GASES



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Quebec may initiate the North American legislative transition towards a cap-and-trade system for greenhouse gases (GHG) as proposed on May 12th, 2009 by Sustainable Development, Environment and Parks (SDEP) Minister Line Beauchamp in the long anticipated Bill 42.

The Bill aims to address the global warming issue by implementing a three-pronged approach:

1. it requires from emitters designated by regulation to declare their GHG emissions to SDEP in order to enable the latter to prepare an inventory and to keep a public registry of emissions;
2. it requires the Quebec government to establish a reduction target for GHG emissions, on the basis of 1990 emissions, for each period to be determined;
3. it empowers the Quebec government to establish a cap-and-trade system for emission allowances.

Bill 42 is designed to apply to “any person or municipality” operating an enterprise, installation or establishment that falls into one of the following categories:

- (i) they emit GHG;
- (ii) they distribute a product – the production or utilisation of which causes GHG emissions; or
- (iii) they are specified by regulation.

The proposed law focuses on the GHGs targeted by the *Kyoto Protocol*, namely, carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF₆).

The details of Bill 42 are as follows. First and foremost, the government shall establish, for each period to be determined, a reduction target for the province on the basis of its 1990 emissions. The Bill espouses, as a deemed target, the reduction objective that was previously adopted by Decree 407-2007, in 2007. This Decree provided for an objective of 10 million metric tons of

GHG emissions reduction annually for the period of 2006 - 2012. The government may allocate the provincial target by fixing industry specific targets or “caps.” The Bill identifies various considerations under which these targets may be adopted, such as emission reduction targets adopted by any Canadian or international intergovernmental agreements. In line with the adopted reduction targets, the government will fix, by Decree, a “cap”, an absolute limit of allowances that shall be granted by SDEP during each period. The government may establish specific caps for some industries as well as enterprise, installation or establishment categories.

The system created by Bill 42 is based on the obligation of every issuer determined by regulation, and for each period to be determined by regulation, to cover its GHG emissions by an equivalent amount of allowances. The Bill creates four (4) different categories of allowances: a GHG unit, a compensatory credit, a credit for early reduction as well as any other allowance determined by regulation. Each allowance will have a corresponding value, in terms of emissions, of one (1) metric ton of CO².

Under conditions to be determined by regulation, SDEP may allocate available allowances at no cost or by selling them by agreement or auction to any person or municipality determined by regulation. SDEP may also grant compensatory credits to any emitter who has reduced its GHG emissions by way of avoiding, stocking or eliminating GHGs. An emitter obliged to cover its emissions and who voluntarily reduced them before legally required, during a period to be determined by regulation, may benefit from an early reduction credit. As aforementioned, SDEP may grant any other allowance to be created by regulation.

Bill 42 requires SEDP to create and maintain two (2) public registries. First, SDEP will collect and draw up information on the nature and the quantity of emissions of every issuer and consolidate this information in a public registry of emissions. In order to insure traceability and computability of emission allowances, SDEP will establish a second public registry intended to compile information on allowances such as the name of each issuer, the amount and the categories of their respective allowances. The administration of these registries as well as the cap-and-trade system itself may be delegated, by agreement, to a third party. The SEDP Minister stated, during a conference presented to the members of the *Montreal Council on Foreign Relations* on May 11th, that the emissions registry may eventually be consolidated with the one being created by the Ontario government, in order to establish a common verification regime.

In addition, SDEP is empowered by Bill 42 to enter into agreements with other governments, ministries and organisations to harmonise and integrate the cap-and-trade system with other such systems.

Any funds generated by the Quebec cap-and-trade system and meant to be paid to the *Fonds vert* will be used to finance GHG reduction measures.

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