

Torlys on Climate Change

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Recent Developments

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North America

Western Climate Initiative releases program design document

The Western Climate Initiative recently released its program design document (the Program Design), setting out how the WCI will implement its plans to establish a regional cap-and-trade system by January 1, 2012. A partnership of seven U.S. states and four Canadian provinces, the WCI seeks to reduce regional greenhouse gas (GHG) emissions to 15% below 2005 levels by 2020. The system will cap emissions from major industrial emitters in 2012, and be expanded to cover providers of transportation, residential and commercial fuels in 2015.

Under the Program Design, each WCI partner will have significant discretion over how to reduce GHG emissions within its jurisdiction. In general, each partner will issue a number of allowances – called an “allowance budget” – equal to its share of the regional cap, but can decide to whom those allowances will be allocated. Some standardization will take place across jurisdictions. The Program Design recommends that in 2012, the first year of the program, each partner issues allowances equivalent to the actual emissions of its covered firms, so that these sources will not be required to reduce their emissions until 2013. When the fuel providers are covered in 2015, the Program Design similarly recommends that in that year they be issued allowances equal to their actual emissions. After these phase-in years, the WCI recommends a linear decline in the size of each partner’s allowance budget until 2020.

The Program Design will allow covered firms to trade allowances to meet their compliance obligations. And the following flexibility mechanisms will be in place:

- WCI partners may award covered firms Early Reduction Allowances for voluntary emission reductions that occurred on or after January 1, 2008 and before January 1, 2012, and that were in addition to any business-as-usual emission reductions.
- Covered firms may bank allowances for use in future compliance periods. However, the WCI will generally not allow these firms to borrow allowances from future compliance periods to meet present compliance obligations unless the partners create specific exceptions to this rule.
- Firms covered by the WCI, collectively, may use certain offsets and emissions credits from outside the covered sectors to meet their caps, but for no more than 49% of the *aggregate required emissions reductions* (as opposed to the total allowable emissions) across all WCI jurisdictions. In practice, this may mean that a firm could only cover approximately 5% of its total allowable

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emissions by the purchase of offsets or non-WCI credits. It is therefore expected that demand will initially be low for offsets inside the WCI.

In the Program Design, each WCI partner can choose how it will allocate allowances to covered firms within its jurisdiction. One allocation method will be quarterly auctions, such as those that take place under the Regional Greenhouse Gas Initiative (RGGI), a cap-and-trade system of northeastern U.S. states. Allowances sold through WCI auctions will have a floor price to ensure that low-cost allowances do not flood the market. Any person with an account in the WCI's allowance tracking system, including covered firms and other market participants, may participate in the auctions; however, to prevent market manipulation, the WCI will limit the number of allowances a single person can purchase.

Other than auctions, WCI partners may also distribute allowances for free, especially to energy-intensive, trade-exposed industries, which otherwise may face significant incentives to relocate to jurisdictions outside the WCI that do not regulate GHG emissions. According to the Program Design, the WCI partners may consider using "benchmarking" to allocate the free allowances – essentially, issuing more allowances to covered firms whose efficiency exceeds the industry standard.

To contain the cost of allowances, the WCI will consider allowing partner jurisdictions to establish an allowance reserve from which additional allowances could be released into the system if allowance prices exceed a certain level. This method of increasing allowance supply has been a cost-containment feature of recent U.S. Congressional cap-and-trade proposals. Furthermore, according to the Program Design, the WCI may eventually be linked to other North American cap-and-trade systems – such as the RGGI or the proposed Midwestern Greenhouse Gas Reduction Accord – by recognizing emission reduction credits generated under those systems. Such linkage can add liquidity to the WCI market and reduce the marginal cost of abatement for firms covered by the WCI.

For further information, please see the [WCI's website](#).

Canada

Canada requires GHG reporting for 2010

On August 14, 2010, the federal government published a notice requiring all persons who operate a facility that annually emits 50,000 tonnes of carbon dioxide equivalent or more to report their 2010 emissions to Environment Canada no later than June 1, 2011. These reports are now collected through Environment Canada's Single Window Reporting system, which was launched in March 2010. This system has been used to collect information for Alberta's emissions intensity trading system, and other provinces are considering it for their own GHG reporting requirements.

Regional coordination of GHG emissions reporting guidelines is likely to continue. Recently, the U.S. WCI partners agreed to harmonize their reporting requirements with the U.S. Environmental Protection Agency (EPA) Mandatory Reporting Rule for GHG emissions. The Canadian, U.S. and Mexican governments have also expressed their interest in harmonized North American reporting requirements.

For further information, please see the [Canada Gazette](#).

Saskatchewan to release draft offset plan

The government of Saskatchewan is continuing to develop its proposed GHG cap-and-trade system, and expects to release draft offset program methodologies in September. These methodologies will set out the technical implementation, monitoring and reporting guidelines for projects seeking to obtain offset

credits that can be sold into a future Saskatchewan cap-and-trade system. As discussed in [Torys' April Climate Change Bulletin](#), Saskatchewan has begun consultations on the scope of proposed regulations that would establish such a system: targeting a 20% reduction in Saskatchewan's 2006 emissions by 2020; requiring firms emitting over 50,000 tonnes of CO₂e per year to reduce their baseline 2010 emissions by 2% per year until 2019; allowing firms to obtain credits for certain emission reductions achieved before 2006 and for certain investments in pre-certified technologies, including carbon capture and storage; and offering offset credits for activities that reduced or sequestered GHGs in Saskatchewan on or after January 1, 2006. The regulations are expected to obtain final approval in fall 2010.

For further information, please see the [government of Saskatchewan's website](#).

United States

Environmental Protection Agency proposes GHG permitting requirements

On August 12, 2010, the U.S. EPA published two proposals to implement its final GHG Tailoring Rule. The EPA will begin to phase in this rule on January 2, 2011, requiring certain new major stationary sources of GHG emissions, and major modifications to existing sources, to obtain a permit addressing those emissions under Title V of the *Clean Air Act*. The permits, which must be obtained before construction, will require the new or modified source to adopt best available emission-control technology, which is determined on a case-by-case basis taking into account, among other factors, the cost and effectiveness of the control.

Under the first proposal, the EPA would require 13 states to update their *Clean Air Act* implementation plans by January 2, 2011, so that their Prevention of Significant Deterioration (PSD) permitting requirements cover GHG emissions. Additionally, all other states that implement their own PSD permitting programs must inform the EPA if these programs do not apply to GHGs sources. Under the second proposal, the EPA would adopt a federal implementation plan so that EPA could issue the PSD permits for the new and modified GHG sources in states that have not yet revised their own permitting procedures.

The EPA is currently undertaking public consultation on the proposed rules, which are expected to take effect before January 2, 2011, the earliest date that the new permitting requirements would come into force. For further information, please see the [EPA's website](#). 