



April 2005

Federal Government Budget Measures Regarding Kyoto Commitments

On March 24, 2005, Bill C-43 (“An Act to implement certain provisions of the budget tabled in Parliament on February 23, 2005”) was tabled in the House of Commons. Parts 13, 14 and 15 of Bill C-43 contain federal government measures for implementation of the Kyoto Protocol to the United Nations Framework Convention on Climate Change. The Kyoto Protocol came into force on February 16, 2005.

The most controversial Kyoto-related amendments in Bill C-43 are those set out in Part 15, which amends the *Canadian Environmental Protection Act, 1999* (“CEPA”). As originally adopted, CEPA gives the federal government broad powers to prevent the pollution of air, water and soil. Currently, Schedule 1 of CEPA sets out a list of highly regulated “toxic” substances. If the amendment is passed, Schedule 1 of CEPA will be referred to as the “List of Substances” rather than the “List of Toxic Substances”. The amended CEPA would allow Ottawa to add “harmful” substances to Schedule 1, which will likely make it easier for greenhouse gases to be added to the schedule. Under CEPA, large emitters of greenhouse gases could be subject to enforceable regulation of greenhouse gas emissions if greenhouse gases are added to Schedule 1.

The amended section 64 of CEPA would permit a substance to be added to Schedule 1 if it is entering or may enter the environment in a quantity or concentration or under conditions that:

- ▶ have or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- ▶ constitute or may constitute a danger to the environment on which life depends; or
- ▶ constitute or may constitute a danger in Canada to human life or health.

The Bill C-43 amendments also establish a new agency and a fund to support Kyoto-related initiatives. Part 13 establishes the Canada Emission Reduction Incentives Agency. This new Agency is intended to provide incentives for the reduction or removal of greenhouse gases through the acquisition, on behalf of the Government of Canada, of eligible credits created as a result of the reduction or removal of those gases. The legislation enables the Minister to designate eligible tradable domestic credits and compliance units.

Part 14 enacts the *Greenhouse Gas Technology Investment Fund Act*. That Act establishes the Greenhouse Gas Technology Investment Fund from which the Minister may make grants or contributions for the purpose of research into, or the development of, technologies or processes intended to reduce emissions of greenhouse gases from industrial sources or to remove greenhouse gases from the atmosphere in the course of an industrial operation.

No time frame has been set for the vote on Bill C-43, although some reports have pegged the likely date as April 12. Further details of the federal government's plans to implement its climate-change strategy are to be announced in the coming weeks.



If you have any questions about this summary please contact Diana Valiela (604.631.6724), Christine Kowbel (604.631.6762), or any other member of the Environmental or Energy Law groups.

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