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[Home](#) › [How government works](#) › [Treaties, laws and regulations](#) › [Canada Gazette](#)

› [Publications](#) › [Part II: Vol. 159 \(2025\)](#)

Regulations Amending the Output-Based Pricing System Regulations: SOR/2025-108

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GREENHOUSE GAS POLLUTION PRICING ACT

P.C. 2025-447 March 15, 2025

Her Excellency the Governor General in Council, on the recommendation of the Minister of the Environment, makes the annexed *Regulations Amending the Output-Based Pricing System Regulations* under sections 192 and 193 of the *Greenhouse Gas Pollution Pricing Act*. ^a

Regulations Amending the Output-Based Pricing System Regulations

Amendments

1 The definition *on-site transportation emissions* in subsection 2(1) of the *Output-Based Pricing System Regulations* ¹ is replaced by the following:

on-site transportation emissions

means emissions from registered or unregistered vehicles and other machinery that are used at the facility for the transport of substances, materials, equipment or products used in a production process or for the transport of individuals. (*émissions liées au transport sur le site*)

2 Section 7.1 of the Regulations is replaced by the following:

Requirement for partial compliance period

7.1 Subject to section 7.2, if a facility ceases to be a covered facility during a compliance period, the person who is responsible for that facility must comply with these Regulations and the requirements of Division 1 of Part 2 of the Act in respect of the portion of that compliance period during which it was a covered facility.

Exception

7.2 Section 7.1 does not apply in respect of a facility that ceases to be a covered facility because the Minister cancelled its designation in 2025 under subsection 172(3) of the Act.

3 (1) Subsection 9(1) of the Regulations is replaced by the following:

Compliance period

9 (1) Subject to subsections (2) and (3), the specified period, for the purposes of the definition *compliance period* in section 169 of the Act, begins on January 1 and ends on December 31 for each calendar year, starting in 2019.

(2) Section 9 of the Regulations is amended by adding the following after subsection (2):

Compliance period — 2025

(3) For the 2025 calendar year, if a facility ceases to be a covered facility because the Minister cancels its designation in 2025 under subsection 172(3) of the Act, the specified period in respect of that

facility, for the purposes of the definition *compliance period* in section 169 of the Act, begins on January 1, 2025 and ends on March 31, 2025.

Transitional Provision

4 (1) The definition *on-site transportation emissions* in subsection 2(1) of the *Output-Based Pricing System Regulations*, as it read before the day on which section 1 comes into force, continues to apply in respect of

(a) any compliance period before 2025;

(b) the 2025 compliance period referred to in subsection 9(3) of the *Output-Based Pricing System Regulations*; and

(c) the portion of a 2025 compliance period, other than the one referred to in paragraph (b), before April 1, 2025.

(2) In this section, *compliance period* has the same meaning as in section 169 of the *Greenhouse Gas Pollution Pricing Act*.

Coming into Force

5 (1) Subject to subsection (2), these Regulations come into force on the day on which they are registered.

(2) Section 1 comes into force on April 1, 2025, but if these Regulations are registered after that day, that section comes into force on the day on which these Regulations are registered.

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Issues

The *Greenhouse Gas Pollution Pricing Act* (the Act) provides the legal framework and enabling authorities for the federal carbon pollution pricing system (the federal backstop system) for the purpose of establishing minimum national standards of greenhouse gas (GHG) price stringency to reduce GHG emissions. The federal backstop system has two components: a regulatory charge on fossil fuels (the fuel charge), and an output-based pricing system for large industry. The federal backstop is applied in whole or in part in provinces and territories that request it or that do not implement a system that meets the minimum national stringency criteria (backstop jurisdiction).

In light of amendments to Schedule 2 of the Act that set the fuel charge to \$0 for all fuel types and combustible waste beginning on April 1, 2025, coordinating amendments to the *Output-Based Pricing System Regulations* (the Regulations) are needed.

Background

The Regulations were published in the *Canada Gazette, Part II*, on July 10, 2019. The federal Output-Based Pricing System (OBPS) was designed to put a price on carbon pollution, creating an incentive for industrial facilities from sectors at significant risk of carbon leakage² and competitiveness impacts due to carbon pollution pricing to reduce their emissions per unit of output. In 2025, the OBPS applies in Manitoba, Prince Edward Island, Yukon, and Nunavut.

On [date, 2025], the federal government announced its intention to refocus federal carbon pollution pricing requirements on ensuring carbon pricing systems are in place across Canada on a broad range of greenhouse gas emissions from industry. As part of this announcement, it is amending Schedule 2 of the Act and the *Fuel Charge Regulations* to

effectively remove the fuel charge as of April 1, 2025 and wind down related filing requirements thereafter [include reference to RIAS and link to FIN RIAS].

The Regulations define the facilities to which the OBPS applies (covered facilities) and specify output-based standards for certain industrial activities that are set on an emissions per unit of output (emissions intensity) basis. Mandatory covered facilities are those located in backstop jurisdictions that emit 50 kilotonnes (kt) or more of carbon dioxide equivalent (CO₂e) per year and carry out an activity listed in Schedule 1 to the Regulations as their primary activity. Covered facilities generally do not pay the fuel charge on fuels that they use at their facilities; instead, they are required to provide compensation on an annual basis for any GHG emissions exceeding their respective facility emissions limit.

Under the Regulations, covered facilities must quantify and report emissions from specified emission types, including on-site transportation emissions. The Regulations define on-site transportation emissions as emissions related to fuel for on-site transportation for which the delivery was subject to an exemption from the fuel charge. By defining these emissions in this way, most on-site transportation emissions are covered under the OBPS while emissions from fuels used for on-site transportation for which the fuel charge was paid are exempted from compliance under the OBPS.

Under subsection 172(1) of the Act, the Minister of the Environment (the Minister) is authorized to designate facilities intending to participate voluntarily to the OBPS as covered facilities under the OBPS. Requests for designation are assessed on a case-by-case basis. Generally, voluntary facilities emit 10 kt of CO₂e per year or more. In 2025, there are 41 covered facilities in the backstop jurisdictions. There are 8 mandatory

covered facilities and 25 voluntary facilities in Manitoba, 1 mandatory facility in Prince Edward Island, 1 mandatory facility in Yukon, and 4 mandatory facilities and 2 voluntary facilities in Nunavut.

The Minister is also authorized to cancel the designation of a voluntary facility under subsection 172(3) of the Act.

Objective

The objective of the *Regulations Amending the Output-Based Pricing System Regulations* (the Amendments) is to ensure that the on-site transportation emissions of covered facilities remain subject to carbon pollution pricing, and, in circumstances where the Minister cancels the designation of a voluntary facility in 2025, to align the compliance period for these facilities to end when the fuel charge rate is set to 0\$.

Description

The Amendments include a change to the definition of on-site transportation emissions to ensure all of those emissions remain covered by carbon pollution pricing. In particular, the Amendments change the definition of on-site transportation emissions by removing the reference to emissions from vehicles using fuels delivered to which an exemption certificate referred to in subparagraph 36(1)(b)(v) of the Act applies. This change will ensure that on-site transportation emissions currently reported under the OBPS continue to be reported. It will also ensure all on-site transportation emissions are required to be reported by covered facilities under the OBPS.

The Amendments also shorten the compliance period for voluntary facilities where designation as a covered facility is cancelled by the Minister in 2025. With the Amendments, the compliance period for any such facilities will be from January 1 to March 31, 2025.

Regulatory development

Consultation

Consultation activities related to the Amendments were not initiated. The Amendments were exempted from prepublication.

The federal government intends to consult provinces, territories, Indigenous Peoples and stakeholders on changes to the minimum national stringency standards for carbon pollution pricing, known as the federal “benchmark” criteria. This consultation process would build on and replace the interim review committed to in the current benchmark.

Changes are expected to focus the benchmark on ensuring industrial pricing systems continue to achieve the most emissions reductions possible and encourage the transition to low-carbon technologies, while protecting industry against competitiveness and carbon leakage impacts. The goal of the benchmark criteria would continue to be that systems are similarly stringent, fair and effective, and the review would consider opportunities to strengthen industrial carbon markets so that they deliver the incentives needed for major decarbonization projects across industry.

Modern treaty obligations and Indigenous engagement and consultation

No Indigenous engagement or analysis specific to these Amendments was conducted.

Instrument choice

The Amendments are related and consequential to those made to Schedule 2 of the Act and the *Fuel Charge Regulations*. No other instruments were considered.

Regulatory analysis

The changes to the definition of on-site transportation emissions ensure continued pricing of those emissions under the OBPS. If the Amendments are not made, the changes to the fuel charge rates would inadvertently result in a reduction in emissions coverage of the OBPS of around 15%. Because the Amendments will ensure continued coverage of emissions, they have minimal impacts relative to the Regulations prior to any amendments being made.

The impact of the Amendments to the compliance period for voluntary covered facilities will depend on the outcome of future ministerial decisions relating to cancellation of designations for these facilities. At a maximum, the Amendments would result in the compliance period for voluntary covered facilities being nine months shorter than it would be without the Amendments. This would result in a cost saving for facilities that would no longer need to pay the carbon pollution price during that period, or a lower ability to generate surplus credits, depending on the circumstances of the facility and the cancellation. In this case, removing the carbon pollution price would reduce the incentive for these facilities to reduce GHG emissions, which could result in an increase in GHG emissions, potentially resulting in a lower environmental benefit.

Small business lens

Based on the facilities that are currently covered by the OBPS, including voluntary participants, no businesses are considered a small business as defined by annual revenue data. Therefore, the small business lens does not apply.

One-for-one rule

The Amendments neither repeal nor introduce regulatory titles. While the Amendments may result in a shorter compliance period for some facilities, the reporting requirements remain for that period. Therefore,

the one-for-one rule does not apply as there are no changes to the administrative burden on businesses.

Regulatory cooperation and alignment

The Amendments do not have implications for international agreements (trade, environmental, human rights, etc.) obligations, or voluntary standards.

Effects on the environment

A comprehensive Strategic Environmental and Economic Assessment has not been conducted.

Gender-based analysis plus

A gender-based analysis plus was not conducted.

Implementation, compliance and enforcement, and service standards

Implementation

The changes related to the compliance period are set to come into force on the day on which the Amendments are registered.

The changes related to the definition of on-site transportation emissions will be applicable as of April 1, 2025.

The Department of the Environment (the Department) will communicate compliance promotion material relevant to the Amendments to persons responsible for covered facilities by email.

Compliance and enforcement

Departmental officials will undertake actions to implement and enforce the Amendments, as necessary, in accordance with the Department's compliance and enforcement policies.³ officers will apply the principles found in the compliance and enforcement policies when verifying

compliance. These policies set out the range of possible enforcement responses to alleged violations. If an enforcement officer discovers an alleged violation following an inspection or investigation, the officer will choose the appropriate enforcement action based on the policies.

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Footnotes

a S.C. 2018, c. 12, s. 186

1 SOR/2019-266

2 Carbon leakage occurs when production and investment shift to jurisdictions with less stringent carbon pollution pricing, weakening emissions reductions at the global level, while reducing economic activity in the jurisdiction with more stringent carbon pollution pricing.

3 Environmental compliance and enforcement policies
