

KEY AMENDMENTS TO BILL C-30: BACKGROUNDER

Prepared for the C-30 Committee and all federal political parties

January 22, 2007

INTRODUCTION

Canadians deserve clean air and protection from climate change.

While we commend Members of Parliament for their commitment to environmental protection¹, we fear that as proposed, the Clean Air Act (Bill C-30) does not provide adequate means to address air quality concerns and greenhouse gas pollution in Canada.

The legislative committee convened to study C-30 has an important opportunity to strengthen this Act – and to catalyze further actions to protect Canada’s environment.

The amendments proposed here reflect a consensus view of the undersigned organizations and collectively, are intended to ensure that the Act:

- Strengthens the ability of the government of Canada to protect our environment in the interest of Canadians;
- Sets the context for regulations that are consistent with the scale and urgency of the challenge; and
- Provides practical, constructive, and concrete policy solutions.

With the proposed amendments adopted, the Clean Air Act will provide one step towards increased environmental protection for Canadians. The amendments below provide a benchmark by which Canadians can assess the result of the Committee’s work to amend Bill C-30.

A. PROPOSALS TO AMEND BILL C-30 / PART 1: “AMENDMENTS TO THE CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999”

(i) CEPA PREAMBLE²

Through Bill C-30, text should be added to the preamble of CEPA to indicate that Canada is guided by the ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC), which is to prevent dangerous anthropogenic climate change.

¹ For instance, the government has recognized the importance of environmental protection laws in its most recent budget update, which states: “*For Canada, strong environmental protection laws are not costs - they are benefits that preserve our natural beauty, attract 'new economy' firms and entrepreneurs, and incubate world-leading environmental protection industries*”

-- Advantage Canada (*Fiscal update, Fall 2006*), Chapter 4: Investing for Sustainable Growth

² Reference: C-30/2 (amendments to CEPA/Preamble)

(ii) NEW DEFINITIONS³

The proposed creation of new categories in CEPA called ‘greenhouse gases’ and ‘air pollutants’, along with parallel regulatory authorities for each, should be removed from Bill C-30. The categories are unnecessary and carry a serious risk of attracting litigation.

(iii) ALTERED EQUIVALENCY PROVISIONS^{4,5}

The proposed change in CEPA standards for equivalency should be removed from Bill C-30. Equivalency provisions permit the Governor in Council to exempt certain jurisdictions (such as provinces) from federal regulation. Currently, CEPA requires equivalency of *regulation*; Bill C-30 proposes a shift to equivalency of *effect*. We believe that this could substantially weaken the regulatory authority of CEPA.

(iv) AIR QUALITY STANDARDS⁶

As proposed, Bill C-30 does not introduce a comprehensive schedule for setting or achieving air quality objectives. The Act’s amendments to CEPA should require that national standards for ambient air quality be introduced to replace the existing voluntary guidelines. These should be based on a review of standards in peer jurisdictions (such as the US, EU and Australia) and aim to meet or exceed best practice. Standards should be established within six months of the Act’s coming into force, and regulations should follow within a further six months. Targets for reducing air pollutant *emissions* should also be set for the short-, medium- and long-term, based on scientific evidence and international benchmarks.

(v) SIGNIFICANT AREAS⁷

Through Bill C-30, CEPA should be amended to give the Minister authority to designate ‘significant areas’ which would be eligible for additional monitoring, research or reporting. This provision would be useful in relation to areas that are particularly environmentally vulnerable (such as the Arctic ecosystem), or associated with the generation or release of significant volumes of toxic substances (such as the Great Lakes – St. Lawrence airshed).

(vi) INTERNATIONAL AIR POLLUTION⁸

Through Bill C-30, CEPA should be amended so as to clarify and strengthen the federal government’s authority to regulate sources of international air pollution in Canada.

B. PROPOSALS TO ADD NEW TEXT ON GREENHOUSE GAS POLLUTION IN BILL C-30

³ Reference: C-30/3 (amendments to CEPA/3(1))

⁴ Reference: C-30/5(3) (amendments to CEPA/10)

⁵ Except Equiterre

⁶ Reference: C-30/18 (amendments to CEPA/103)

⁷ Reference: New addition to C-30 (amendments to CEPA/53)

⁸ Reference: New addition to C-30 (amendments to CEPA/166)

(i) SHORT- MEDIUM- AND LONG-TERM TARGETS FOR ALL SECTORS

Bill C-30 should be amended to recognize that Canada is a signatory to the Kyoto Protocol of the UNFCCC and has committed to reducing its GHG emissions to 6% below 1990 levels by 2008-2012. In addition, Bill C-30 should include a long-term target for reducing overall domestic GHG emissions to at least 80% below 1990 levels by the year 2050 and interim targets at five-year intervals from 2015 to 2050. The 2020 interim target should involve reductions to at least 25% below 1990 levels.

(ii) FIRST COMMITMENT PERIOD TARGETS FOR HEAVY INDUSTRY

An amendment to Bill C-30 should also require the Governor in Council to introduce limits to GHG pollution from heavy industry that take effect in 2008. These should include clear targets and performance standards. We strongly recommend that the Bill require the regulations also include the following provisions:

- A fixed cap on absolute emissions that extends a ‘Kyoto-level’ target to heavy industry for the 2008-2012 period⁹ – i.e. a reduction in emissions to 6% below 1990 levels;
- A permit-trading system to facilitate efficient allocation of emissions reductions. A percentage of the permits should be auctioned and the revenues applied to further GHG reduction initiatives. Canada’s trading system should be linked to other Kyoto-compliant trading systems.

(iii) BUDGETARY POLICY

An amendment to Bill C-30 should require the Minister of Finance to table the projected GHG impacts of each budget, disaggregated by measure, at the same time as the budget itself.

(iv) EMISSIONS REDUCTION AGENCY

An amendment to Bill C-30 should lead to the establishment of an arms-length ‘emissions reduction agency’. This body would be responsible for independently facilitating and implementing domestic actions to reduce GHG emissions.

⁹ Fixed limits could be established on a sectoral or on a regional (geographic) basis.

C. PROPOSALS TO AMEND BILL C-30 / PART 2: “AMENDMENTS TO THE ENERGY EFFICIENCY ACT”

(i) ENERGY EFFICIENCY ACT PREAMBLE

Through Bill C-30, a preamble should be added to the Energy Efficient Act to support setting targets for continuous, economy-wide improvements in energy efficiency in Canada.

(ii) ENERGY EFFICIENCY STANDARDS

Bill C-30 should amend the Energy Efficiency Act to include the following new clauses:

- The Governor in Council will be required to set energy efficiency standards for all products responsible for significant and/or increasing energy consumption in Canada.
- The Governor in Council will be required to review and adjust energy efficiency standards every three years so that standards continually meet or exceed the most stringent levels found in North America.

D. PROPOSALS TO AMEND BILL C-30 / PART 3: “AMENDMENTS TO THE MOTOR VEHICLE FUEL CONSUMPTION STANDARDS ACT”

(i) VEHICLE EMISSIONS

Bill C-30 should amend the Motor Vehicle Fuel Consumption Standards Act to regulate vehicle emissions to a standard that meets or exceeds North American best practice (currently found in California). The Governor in Council should ensure that such regulation takes effect in 2010 when the existing Memorandum of Understanding with the auto sector ends, or by 2009 if the auto sector fails to meet the terms of the MoU during implementation.

E. PROPOSALS TO AMEND CONDITIONS FOR BILL C-30’S COMING INTO FORCE

(i) COMING INTO FORCE

Bill C-30 should be amended so that the Governor in Council no longer has discretionary power to choose when to bring the Act into force. Instead, the coming into force should be fixed at 90 days after the day on which Bill C-30 receives Royal Assent.

F. LINKAGES BETWEEN BILL C-30 AMENDMENTS AND CONSULTATIONS ON THE CEPA ‘NOTICE OF INTENT’

(i) NOTICE OF INTENT

While the committee proceeds with work on Bill C-30, the government is undertaking cross-Canada consultations on short-term air emissions targets and regulations which it proposed under CEPA in an October 21 ‘Notice of Intent’.

The committee should be aware that some amendments to Bill C-30 recommended here relate directly to emissions targets and regulations and as such, could have a bearing on the ‘Notice of Intent’ and its consultation process.

We therefore recommend that, wherever possible, the committee take steps to harmonize targets and regulations being addressed by these two processes at the level of the higher standard. In addition, the committee may want to take the opportunity to review relevant public comments collected through the ‘Notice of Intent’ consultation.

SIGNATORY ORGANIZATIONS:



Sage Centre

