Carbon Article: Institute of Quarrying Australia
'The Carbon Pollution Reduction Scheme and quarrying'
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INTRODUCTION

Much has been written about the Federal Government's proposed Carbon Pollution Reduction Scheme - but much remains unclear as to its actual impact. This article provides a brief overview of the Scheme, and attempts to outline at least some of the impacts that the quarrying industry can expect.

The essence of the Scheme is to harness market forces in an effort to lower greenhouse gas emissions. This is accomplished by "capping" emissions and requiring emitters to surrender sufficient permits to cover those emissions. Entities holding excess permits may either trade or bank them. In theory, the Scheme will provide a more effective and efficient means of reducing greenhouse gas emissions than traditional end-of-pipe emission limits.

However, the Scheme promises to be immensely complex, and the actual impacts on industry and the wider economy are yet to be fully identified. Although some indications of those impacts can be gleaned from the Federal Government's White Paper, and the Carbon Pollution Reduction Scheme Bill - with the Bill having been voted down by the Senate in August of 2009, the picture remains only partially complete.

CPRS COVERAGE

To understand how the CPRS will impact on the Australian quarrying industry, one begins with considering of the Scheme's coverage. "Coverage" under the CPRS refers to the greenhouse gases and the emission sources for which permits are required, the entities who will have to surrender them, and the types of offsets for which permits will be issued.

Coverage under the CPRS is comprehensive, rivalling that of any existing or proposed greenhouse gas emissions trading scheme in the world. All sectors of the Australian economy (except direct emissions from the agriculture sector) will be covered by the CPRS, including emissions from the transport sector (the liability for which will be attributed to upstream fuel producers in the first instance). Also, unlike some other schemes, the CPRS will cover all greenhouse gases (carbon dioxide, methane, nitrous oxides, sulphur hexafluoride, hyrdofluorocarbons, and perfluorocarbons).

EXPECTED IMPACT ON QUARRYING

If passed, the CPRS will force the quarry industry to consider the full cost of carbon pollution. This cost will be both direct, and indirect.

DIRECT LIABILITY

An entity will be liable under the CPRS to acquit permits to the Commonwealth for all of its greenhouse gas emissions if:

(a) it is a controlling corporation (in other words a constitutional corporation that does not have a holding company incorporated in Australia - i.e. the ultimate Australian holding company) of an entity, that;

(b) has operational control of an activity, that;

(c) directly emits over 25,000 tonnes CO_2-e per year.

The permits can be acquired by government auction, from other permit holders, from offset providers or internationally. The price for permits will be fixed at $10 per permit for the first compliance year (July 2011 - June 2012). The current price for international permits is approximately AUD$22.00.

Clearly, therefore, the first concern is to assess whether any activities (i.e. quarry operations) emit more than 25,000 tonnes CO_2-e per year. Importantly, the Scheme provides that total emissions may be attributed to an activity, or a series of activities, that form a single undertaking or enterprise. Therefore, companies will need to consider whether an integrated operation (e.g. quarrying and cement production) falls within the ambit of an "activity" or "series of activities". This assessment must be done before the deadline for reporting under the National Greenhouse and Energy Reporting Act 2007 (Cth): 31 October 2009.

Once an activity is deemed to trigger the obligation to acquit, that obligation (which is an obligation for all greenhouse gas emissions) goes up the line to the controlling corporation. This means that the operational entity doesn't actually hold the obligation (unless the operational entity is also the controlling corporation). This could lead to a situation in which the controlling corporation (the parent corporation) is liable for the costs of emissions from an activity operated by a subsidiary (or a subsidiary of a subsidiary) and the controlling corporation has no legal ability to pass that financial cost back to the subsidiary. Thus the costs associated with direct liability of the Scheme may be substantial at the corporate level (with no corresponding benefit).

PASS THROUGH COST

The quarrying industry is also likely to experience a number of more general, economy-wide, costs associated with the introduction of the CPRS. For example, cost increases in the supply of electricity, fuel and other power generation may be passed on by suppliers. This would obviously result in an increased cost of production.

Quarrying operators should review, and be aware of, the conditions of any existing long-term supply contracts and whether those contracts allow suppliers to pass on the costs associated with the CPRS. As many of these contracts probably don't contemplate the CPRS (having been drafted well before this initiative), it may be that suppliers look to a change of law clause in order to do this. Proper interpretation of that clause will be crucial.

Of course, should a quarry operator face a cost increase because of the CPRS, it may wish to also pass that cost along. Again, supply arrangements will have to be examined to determine whether this is feasible.

In addition, it is largely accepted that the introduction of the CPRS will lead to an increase in the price of petroleum-based fuels. Although the government is considering various measures to compensate for this cost increase, quarry operations who have obligations under the Scheme, and are large fuel users, are provided the opportunity to voluntarily manage the Scheme obligations arising from the fuel. By voluntarily assuming scheme obligations, a large fuel user may limit administrative costs added-on by upstream suppliers. A voluntary approach allows large fuel users the flexibility to determine for themselves whether or not to directly manage costs of the CPRS.

CONCLUSION

The CPRS portends many potential changes for the quarry industry. Should any particular activities be captured by the Scheme, direct liability and associated costs will arise. Even if there is no direct liability, there will clearly be associated costs, which may or may not be able to be passed along to customers (who will also be facing their own cost increases). Despite its recent set-back, the Commonwealth government seems keen to push through the CPRS. Responding to this new set of obligations will prove a major challenge for all industries in the next few years.

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