

SYNTHESIS OF PUBLIC COMMENT



On the 2010
Progress Report
under the Canada-
United States Air
Quality Agreement

December 2011

INTERNATIONAL
JOINT COMMISSION
Canada and United



COMMISSION MIXTE
INTERNATIONALE
Canada et États-Unis

Synthesis of Public Comment

***on the 2010 Progress Report
under the Canada-United States
Air Quality Agreement***

***International Joint Commission
Canada and United States***

December 2011

The views expressed in the synthesis are from the individuals and organizations who participated in the public comment process. They are not the views of the International Joint Commission.

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Executive Summary

Under Article VIII of the 1991 *Canada-United States Air Quality Agreement*, the Governments of Canada and the United States established a bilateral Air Quality Committee to assist with implementation of the Agreement, to review progress made, and to prepare progress reports at least every two years. Environment Canada and the United States Environmental Protection Agency support the work of the Committee and draft the progress report. Under Article IX of the Agreement, the International Joint Commission (IJC) is assigned responsibility to invite comments on each Progress Report prepared by the Air Quality Committee, to submit a synthesis of the comments received to the Governments, and to release the synthesis of comments to the public.

This report provides a synthesis of the comments received on the 2010 Progress Report for the years 2008-2010. The views expressed are not those of the IJC but of individuals and organizations. Twelve submissions were received: five from Canada and seven from the United States. Of these, one represented government comments and the rest represented non-governmental organizations or individual perspectives. Five comments were submitted in writing and the remaining seven were submitted orally at public meetings or during the webinar. The names of the respondents may be found in Appendix 1.

Due to the decreasing public response to Progress Reports over time, the IJC increased its efforts to obtain comment on the 2010 Progress Report. Despite media coverage, extensive outreach efforts to stakeholders, personal attempts at outreach from IJC commissioners, and extension of the comment submission deadline, there were a limited number of public comments and diminished response from governments.

Comments generally expressed support for the Agreement process and the progress that has been made. Nonetheless, most respondents said that more needs to be done in order to achieve better air quality. They called for a number of issues to be included in the Agreement process such as reducing the transboundary transport of airborne toxic substances and fine particulate matter. Others noted that while the objectives of the Agreement have largely been met, stronger commitments, such as lower caps for NO_x and SO_x, are needed to address ongoing impacts to health and the environment. The IJC takes note of these comments and observes that while the Agreement process provides an important opportunity for public participation, it may be unrealistic to expect a significant level of engagement until the Governments commit to further action under the Agreement, or other developments focus attention on transboundary air quality.

Introduction

The 1991 Canada-United States Air Quality Agreement was put in place to establish “a practical and effective instrument to address shared concerns regarding transboundary air pollution.”

Under Article VIII, the Governments of Canada and the United States established a bilateral Air Quality Committee to assist with implementation of the Agreement, review progress made, and prepare progress reports at least every two years. Environment Canada and the United States Environmental Protection Agency (EPA) support the work of the committee and draft the progress report.

In accordance with Article IX, the International Joint Commission (IJC) invites comments on each Progress Report prepared by the Air Quality Committee, submits a synthesis of views to the Governments, as well as the full record of views if either Government requests, and releases the synthesis of views to the public.

The 2010 Progress Report, prepared by the bilateral Air Quality Committee, is the tenth biennial report completed under the 1991 Canada-United States Air Quality Agreement. The report discusses key actions undertaken by Canada and the United States in the last two years to address transboundary air pollution within the context of the Agreement. Specifically, the report presents progress made toward meeting the commitments established in the Acid Rain and Ozone Annexes of the Agreement, and in implementing the underlying Agreement.

To prepare its report, the Air Quality Committee took into consideration the public comments received through the International Joint Commission (IJC) regarding the 2008 Progress Report. A synthesis of the comments received in response to the 2008 Progress Report can be found on the IJC website at <http://www.ijc.org/php/publications/pdf/ID1634.pdf>.

Following the release of the Progress Report in 2010, the IJC invited public comment in a variety of ways, through:

- A notice in the 2010 Progress Report;
- The IJC website;
- A special website constructed for the public comment process;
- Public meetings in Windsor, Ontario and Detroit, Michigan on June 13 and 14, 2011, respectively;
- Outreach to media, which resulted in interviews with public radio station WDET (Detroit) and CBC Radio One (Windsor), a front page article in the Windsor Star, an article in the Great Lakes Echo (online), and other coverage;
- Paid advertisements in Detroit and Windsor newspapers;
- Email invitation including a prepared summary of the Progress Report sent to a targeted list of approximately 350 industry, environmental, educational, and governmental contacts active on air pollution issues;
- Individual calls to approximately 30 key contacts;
- A webinar with a presentation and comment period; and
- Personal outreach from IJC Commissioners.

Comments were requested by September 9, 2011. This deadline was then extended by IJC Commissioners to October 7, 2011 to allow for further outreach efforts. Despite increased public outreach efforts, fewer comments were received than with previous Progress Reports. The IJC received a total of twelve responses (five from Canada and seven from the United States). Of these, one was from a government representative and the rest were from other non-governmental organizations and individuals expressing their own views. Five were submitted in writing and the remaining seven were submitted orally at public meetings or during the webinar. A full listing of the respondents is provided in the appendix to this report.

Every effort has been made to accurately reflect the views expressed and comments received. The views expressed are those of the respondents, not of the IJC. The full text of all comments received can be viewed on the IJC's website at www.ijc.org.

General Comments on the Air Quality Agreement

In assessing the 2010 Progress Report, few respondents commented specifically on the role of the Canada-United States Air Quality Agreement. However, one respondent noted, "...the need for such an agreement was and still is timely considering the health and environmental impacts of millions of Canadians still trying to cope with the still too high levels of pollution in their communities." Respondents appeared generally in favor of continued cooperation between Canada and the United States in managing air pollution issues but believed that the goals under the Agreement were not comprehensive in managing air pollution or its health and environmental impacts. One respondent, in particular, noted that such an agreement could be valuable for controlling air pollution in applications beyond those stated in the Agreement, such as controlling atmospheric greenhouse gas levels.

General Comments of the Air Quality Progress Report

Because of the variety in professional backgrounds of the respondents, general comments on the 2010 Progress Report were diverse. One respondent noted, "The report format, content, and presentation is user friendly, [and] easy to read and understand." Respondents were generally encouraged by the reported progress but agreed that more needed to be done by the Governments. There were few specific comments in reference to the report as a whole. One respondent did say that the report and others in the past:

"...have failed to explain to the public the regulatory differences...between [the] United States, with its federal Clean Air Act and authority of the EPA,...[and] Canada, [with] its provinces [which] have the constitutional authority to regulate [and] legislate at the provincial level."

Respondents noted several items that were not covered in the Progress Report. Some respondents expressed concern with current levels of pollution given that the commitments under the Agreement had already been met. One respondent said, "...despite progress made in the Agreement, it still [has] not been enough to reduce the pollution levels from long range transport sources." Another said, "In Southeast Michigan, there are still many days out of attainment under the Clean Air Act, and it is important to ratchet down caps to improve air quality." Another comment noted that the report included limited information on the impacts of climate change on air quality.

Additional Issues

Respondents identified some areas of note not mentioned or not described comprehensively in the report. Excerpts from these respondents' comments are included below:

- [The report] failed to acknowledge the Certificates of Air Quality Approvals as a regulatory tool. The Progress Report mentioned the EIA process in considering the prevention of air

- quality but failed to acknowledge the equally important Air Quality Approval process, especially in New Brunswick.
- There is little to no reference in the report on what is being done in Canada in reference to NO_x or VO_x control measures.
 - It is important to note in the report that air emissions have great impacts on Great Lakes water quality, especially toxics from coal-fired power generation.
 - [In reference to the report section “Consultation and Notification Concerning Significant Transboundary Air Pollution”] There are ample examples of solid notification and exchange of information, but the consultation aspect appears that it is either not occurring enough or it is not documented in the Progress Report.
 - There is reference to [Algoma Steel, Inc.] and their informal consultation group...was this the only group consulted? What about the ongoing consultation between Canada/United States officials or between the provinces and [Canadian] Federal Government?
 - [The report] need[s] to acknowledge Advisory Committee consultation with environmental NGOs and community health groups [in the text] or with web references.
 - The Southern Ontario and Southern Quebec PEMA should include the Maritime Provinces or an explanation of why they are not included.
 - The [“Ozone Annex: Overview”] section does not mention Ontario’s Clean Energy Act and its achievements to date in reducing SO₂ and NO_x emissions. What are the implications if that should occur?
 - The report should have covered the failed effort by the CCME and Environment Canada to update VOC codes and guidelines in 1995/1996.
 - [Respondent] would have liked to have seen more reporting on the results of Health Canada and Environmental Canada’s known studies.
 - The Progress Report fails to address the economic downturn as a factor in the NO_x reductions in the United States from 2007 to 2008.
 - The report needed to explain that the new national emission standards proposed by the Canadian Federal Government are a prescriptive approach under regulation as opposed to voluntary guidelines.

Recommendations for Agreement Expansion and Future Progress Reports

Respondents recommended addressing multiple areas in order to further improve air quality in the future. Some of the suggestions would require revision of the current Agreement requirements, while other comments identified areas not currently mentioned in the Agreement. A respondent emphasized the value of continuing to publish biannual Progress Reports in order to maintain focus on efforts to improve transboundary air quality.

Some comments recommended modifications for monitoring indicators and commitment pollutant levels, which are quoted as follows:

- Caps for NO_x and SO_x need to be lowered. More can be done with pollution control to greatly reduce amounts of NO_x and SO_x in the air. Though the report showed decreases in acid rain, there are still concerns to air quality from NO_x and SO_x.
- I'm surprised that caps and controls for SO_x have not been implemented for mercury. It would be beneficial to implement a similar approach [as with SO_x] in monitoring to reduce mercury emissions throughout the [Great Lakes] region.
- I'm surprised with the degree of spatial and temporal variability in air quality parameters that are monitored. Centrally-located monitors in large cities are relied upon to give an indication of air quality over a large area with large population, but then when discussing problems associated with air quality, these problems are dependent upon the exposure individuals get on a neighborhood scale as opposed to a regional scale.
- High-density air sampling efforts should be used in addition to sampling by air monitoring systems to measure and define spatial variability of airborne pollutants to investigate health on a neighborhood-scale spatial level of analysis.

A few respondents commented on a further need to address fine particulate emissions. Excerpts from their comments are included below:

- Smaller particles are more harmful to children and the elderly. By measuring these health impacts, one can put controls on electricity generation agencies.
- In Southwest Detroit, the issue of ground level fine particulate emissions should be forced, particularly with regard to emissions from diesel.
- It is important to have the ability to measure and monitor air pollutant components on a finer scale in order to resolve the health impacts that they have. Many metals, like mercury and iron can be very toxic in this context and monitoring, controlling, and limiting this particulate matter should be emphasized in the future.
- Suspended particulate matter movement should be considered a transport mechanism for metals, and further study should be done on its implications for cross border air pollution.
- The Progress Report does not appear to be focusing much if any attention to [biomass as a] source of particulate matter.
- Movement of suspended particulate matter should be considered a potentially significant transport mechanism for metals (including Pb, Cu, Zn, Tl, Mo, Ba, and Fe) with important implications for cross border air pollution that warrants additional study.

One respondent, in particular, had specific recommendations for future Progress Reports:

- [Respondent] would suggest a section on explaining the differences between the [regulatory regimes] of the United States and Canada.
- Could you do an overview summary of the Public Participation Regulation associated with the Clean Air Act of New Brunswick?
- [It] might be suggested to have a section on how the Agreement and its outcomes relate to the Climate Change CO₂ emission agenda. The public could benefit from such clarification.
- Please update the report on whether the Ontario Government's plans to phase out four coal fired units by October 2010 have been completed.

- Please include biomass burning, which is being promoted in some areas, under initiatives related to wood combustion.
- This and future Progress Reports must address the services problem of residential wood combustion stoves, fireplaces, etc. that are a significant source of particulate matter and VOCs. Please include a section on residential wood combustion for the 2012 report.
- The “New Actions of Acid Rain, Ozone and Particulate Matter” needs to be updated to include [data from] 2011.
- The next Progress Report needs to report on the status of the Canadian Census Cohort Mortality and Air Pollution Study.
- The climate change impact from the burning of fossil fuels, which creates NO_x, SO_x, and ozone, needs to be covered in a broader perspective.
- I would suggest information in the reports on how the Canadian public is using the [web page reference for the Canadian Air Quality Health Index] to help them protect health on a daily basis. Some information of its use and effectiveness needs to be in the next report, as well.

Recommendations for Further Action

Beyond suggesting areas of expansion for the Agreement, some respondents recommended initiatives the IJC, Federal, State, or Provincial Governments could take to improve air quality and alleviate the impacts from transboundary air pollution. Some suggested new authorities and roles; others requested assistance on more specific matters. The following subsections include select quotations from their comments.

Further action for the IJC:

- In Michigan, environmental regulators have not been considering cumulative impacts when making air quality permitting decisions. The IJC could take on this role: looking at cumulative totals of air emissions in the region(s) and making determinations on whether or not critical points have been reached [for reductions] on both sides of the border.
- The IJC should advocate a means to pre-screen and pre-approve small shipments [of scientific equipment] transported across the border for research purposes.
- The IJC should encourage cooperation between Canadian and United States agencies to jointly fund international research studies.
- The IJC should explore the impacts on air quality from the current development of industry in Southeast Michigan.

Further actions for Governments:

Bi-National

- States and provinces should look at permitting the use of limited air quality on both sides of the border along the same vein as current ratcheting-down initiatives being considered by the Federal Governments.

- Only government officials have participated in the consulting [for the report]. I would like to see delegates from the environmental and public health interest groups.
- The United States and Canada, working together, could make headway in terms of controlling greenhouse gas emissions, even though [greenhouse gas emissions] are global by nature.
- Improving emission regulations on mobile generation sources would be valuable and would benefit both sides of the border.
- How much more research and studies do we need before regulatory authorities take more aggressive action to reduce these air contaminants? They need to take more vigorous action. The mandatory rates are just too high and too many people are getting sick and dying at very high costs to society.

Canada

- Provincial jurisdictions should introduce regulatory provisions concerning gasoline vapor recovery similar to [those enforced in] the City of Montreal.
- [Repealing the Ontario Clean Energy Act] would be a regressive action negatively impacting on the progress identified in [the Agreement].
- Canada needs to enhance its efforts and set up a similar network as the United States' Ammonia Monitoring Network for agricultural areas.
- Health Canada and Environment Canada should publically release the findings of their studies on the health risks associated with exposure to air pollutants emitted from industrial and transportation sources.
- Are there plans for a "national cap" [for] large fossil fuel-fired power suppliers, similar to that proposed in the Pollutant Emission Management Area (PEMA)?
- I suggest provinces pass mandatory Public Participation Regulations, like those in New Brunswick, for the approval of Air Quality Approvals for large industrial sources.

United States:

There were no specific recommendations for further actions to be taken solely by the United States Government; however, one respondent recommended that the EPA continue its newly implemented reductions in vehicular emissions standards.

Further action for other entities:

- It would be helpful if the National Science Foundation or a similar agency in Canada could fund an international team consisting of United States and Canadian researchers as a part of an effort to facilitate interchange and develop independent international studies to look at air pollution problems.

- Put real time [air quality] data on the continuous monitoring sites so the public can check air quality monitor readings in their local communities.
- VOC data, which has to be sent to Environment Canada, has to be taken more frequently: daily, instead of [weekly].

Questions for the IJC and Governments

In addition to recommending future initiatives, several respondents had questions arising from the report for further clarification:

- Are there future plans to “align” the United States standards and Canadian standards into a common, comprehensive North American Standard?
- Does the IJC have the authority to determine the composition of aerially applied chemical sprays (used to modify weather) and/or investigate potential resulting impacts to health and the environment?
- Should the report also include Canadian and United States plans to reduce emissions from new passenger automobiles, light trucks and heavy-duty vehicles and the alignment of Canada’s and the United States’ vehicle regulations?
- What angle or alternative measures can be provided or assessed in terms of reducing ground level ozone?
- Are there any specific targets for ozone under the Agreement?
- What is the significance of the contribution of Canadian oil sands to air quality? The report discusses reductions in oil sands, but they are not being reduced.
- Will Canada be pressured by the United States, through the Agreement, to reduce emissions within a sector, such as the oil sands?
- Why are ocean freighters (“salters”) but not lake freighters (“lakers”) targeted for reducing sulfur, nitrogen compounds, and particulate matter?
- How much of the \$12 million invested by the Federal Government over the last four years was spent by large industrial sources for monitoring stations and upgrades?
- I see new [EPA] rules in the United States that [require] coal fired plants to install emission control technologies. Have these been announced yet?
- The strategies identified for transportation emission reduction did not identify the Air Quality Management System (AQMS) or the Comprehensive Air Management System (CAMS). Will future reductions/emissions of mobile sources be addressed as part of the AQMS in this Agreement?
- Based on the proposed reduction from the Canadian electrical utilities as part of the AQMS-Base Level Industrial Emissions Requirements (BLIERs), are there similar proposals in reductions of emission from United States electrical generators?
- The United States’ ability to reduce transboundary ozone was catalyzed by SIP Call and CAIR programs. Given that CAIR will be replaced by the EPA’s Cross-State Air Pollution Rule, how will this affect the United States’ capacity to comply with the Agreement?

Signed this 12th day of December, 2011 as a synthesis of views received from the public on the 2010 Progress Report of the Canadian and United States Governments under the Canada-United States Air Quality Agreement of March 31, 1991.



Hon. Joseph Comuzzi
Chair, Canadian Section



Hon. Lana Pollack
Chair, United States Section



Pierre Trépanier
Commissioner



Rich Moy
Commissioner



Lyall Knott
Commissioner



Dereth Glance
Commissioner

Appendix

Sources of Comments Received on the 2010 Progress Report under the Canada-United States Air Quality Agreement

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