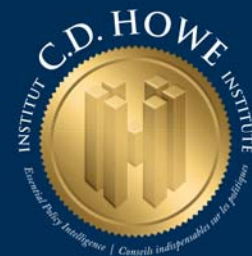


MANDATE LETTERS



As Canada forms its next government, the Prime Minister's Office will be preparing ministerial mandate letters. In this special Intelligence Memo series, policy experts highlight key challenges and priorities in each minister's portfolio.

From: Grant Bishop
To: The Incoming Minister of Environment and Climate Change
Date: October 24, 2019

Canada and its partners are at a critical juncture in the international efforts to reduce greenhouse gas emissions and mitigate climate change. Initiatives to reduce Canada's GHGs will involve significant changes to our use of energy and its sources. Concurrently, prolonged timelines and politically-charged proceedings, as well as uncertainty around constitutional duties to Indigenous peoples, have [strained confidence](#) in federal processes for reviewing the environmental impacts for major projects. Notably, the Constitution does not assign "the environment" to either federal or provincial jurisdiction. Instead, each order of government legislates with respect to environmental protection under their respective jurisdictions under the Constitution. Therefore, confronting environmental challenges requires working constructively and collaboratively with provinces.

Therefore, as you embark on your term as Minister of Environment and Climate Change, your priorities should be to:

- Ensure existing or future federal legislation for reducing GHGs complies with the Constitution. In particular, the Supreme Court will hear arguments early in 2019 regarding whether the federal government has the necessary jurisdiction for its carbon price. While court decisions in Saskatchewan and Ontario have so far upheld federal jurisdiction for the *Greenhouse Gas Pollution Pricing Act*, the reasoning in these decisions is inconsistent with previous constitutional caselaw and faces a significant risk of being reversed on appeal. You should [develop contingency plans](#) in the event that the act is held to be unconstitutional.
- Ensure incentives to reduce GHGs are efficiently designed and fair. In general, you should pursue a uniform, economy-wide carbon price and avoid regulatory measures that impose widely different effective costs per GHG tonne between GHG-emitting activities. For example, [Institute research](#) has emphasized the arbitrariness and high relative costs for abating each GHG tonne by mandating standards for renewable content in specific fuels (as under the proposed "Clean Fuel Standards"). As well, Institute publications have illustrated the [inefficiency of stranding oil](#) to reduce emissions and estimated the [high overall cost per GHG tonne](#) from rejecting economically-viable pipeline projects.
- Address distortions in the federal government's regulations for output-based carbon-pricing for power generation. Specifically, [Institute research](#) called attention to the federal government's economically-inefficient departure from the "one product, one benchmark" principle for output-based carbon pricing and demonstrated how the differentiation of GHG emission intensity benchmarks between coal and natural gas would distort dispatch toward higher-GHG coal facilities. In addition to inefficiently defining separate benchmarks for coal and natural gas, the [final OBPS regulations](#) added to the distortion by preferential treatment for existing natural gas power generation relative to new facilities completed after 2021.
- Develop a flexible, outcomes-based regulatory regime for measuring and mitigating fugitive methane emissions. Scientific evidence indicates methane has much higher global warming potential than carbon dioxide and is systematically under-measured. However, because of the imprecision of measurement and dispersed nature of methane leaks across the oil and gas value chain, pricing fugitive methane emissions is presently infeasible and regulatory requirements for monitoring and preventing leaks are appropriate. Nonetheless, as [highlighted by recent Institute research](#), regulatory standards should be appropriately flexible to allow for new technologies that achieve outcomes for accuracy and mitigation of leaks.
- Ensure efficient, timely and rigorous assessment for major projects under the new federal impact assessment legislation (passed as Bill C-69). In particular, you should support the stand-up of the new Impact Assessment Agency of Canada (IAAC) and, as required by legislation, safeguard the independence of its impact assessments from political decision-making.
- Work with the Attorney General and Minister of Justice and with the Minister of Crown-Indigenous Relations to develop robust guidance for federal officials to fulfill the constitutional duty to consult Indigenous peoples. Courts have recognized that impact assessment processes may contribute to fulfillment of the duty to consult, and, given your responsibility for federal impact assessment legislation, you must address the ongoing gap in updated guidance for federal public officials who need to fulfill the government's constitutional duty to consult when rendering decisions that affect the rights of Indigenous peoples.

Grant Bishop is the associate director of research for the C.D. Howe Institute.

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