

AN AGREEMENT ON THE EQUIVALENCY OF  
FEDERAL AND NOVA SCOTIA REGULATIONS  
FOR THE CONTROL OF GREENHOUSE GAS EMISSIONS FROM ELECTRICITY  
PRODUCERS IN NOVA SCOTIA, 2020

BETWEEN

THE GOVERNMENT OF CANADA  
AS REPRESENTED BY THE MINISTER OF THE ENVIRONMENT  
(“CANADA”)

AND

THE GOVERNMENT OF NOVA SCOTIA  
AS REPRESENTED BY THE MINISTER OF ENVIRONMENT  
(“NOVA SCOTIA”)

**WHEREAS** Canada and Nova Scotia (“the Parties”) are parties to the Canada-Nova Scotia Agreement in Principle with respect to an equivalency agreement for Canada’s *Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations (Coal-Fired Electricity Regulations)*;

**AND WHEREAS**, Nova Scotia established renewable energy targets in advance of the *Coal-fired Electricity Regulations*.

**AND WHEREAS** Nova Scotia promulgated the *Greenhouse Gas Emissions Regulations*, made under subsection 28(6) and Section 112 of the *Environment Act*, S.N.S. 1994-95, c. 1, on August 14, 2009 which limit greenhouse gas emissions from the electricity sector in Nova Scotia for the period January 1, 2015 to December 31, 2029.

**AND WHEREAS** for the purposes of determining equivalency, the impact of the federal *Coal-fired Electricity Regulations* was modeled based on the regulated requirements, which includes a 550 t CO<sub>2</sub>/GWh emission intensity performance standard applied to natural gas-fired capacity that replaces coal-fired electricity generating units that have reached the end of their useful life.

**AND WHEREAS** for the purposes of determining equivalency, the impact of the Nova Scotia’s *Greenhouse Emissions Regulations* considered actual emissions for the 2015 to 2017 period and the GHG emissions caps as per these *Regulations* for the period of the 2018 to 2029 period.

**AND WHEREAS** for the purposes of determining equivalency, the impact of the federal *Coal-fired Electricity Regulations* was calculated based on the regulated requirements. The total

calculated emissions from the electricity sector in Nova Scotia for the period of January 1, 2015 to December 31, 2029 are 108.7 Mt CO<sub>2</sub>e;

**AND WHEREAS** for the purposes of determining equivalency, the impact of the *Greenhouse Gas Emissions Regulations* is a total of 100.8 Mt CO<sub>2</sub>e, with 20.9 Mt CO<sub>2</sub>e reported by the Government of Nova Scotia and verified by the Government of Canada in the years 2015-2017, and 79.8 Mt CO<sub>2</sub>e which are the regulated caps on GHG emissions from 2018-2029;

**AND WHEREAS** section 10 of the *Canadian Environmental Protection Act, 1999 (CEPA)* allows the Minister of the Environment to agree in writing with a provincial government that there are in force by or under the laws applicable to the jurisdiction of the government provisions that are equivalent to a regulation made under subsection 93(1) of the *CEPA*, and provisions that are similar to sections 17 to 20 of the *CEPA* for the investigation of alleged offences under environmental legislation of that jurisdiction;

**AND WHEREAS** Canada and Nova Scotia have initiated work that directly contributes to the development of future agreements possible under section 10 of the *CEPA*;

**NOW THEREFORE**, the Parties agree:

## 1.0 DEFINITIONS

“*CEPA*” means the *Canadian Environmental Protection Act, 1999*, S.C. 1999, c. 33, as amended;

“*Environment Act*” means the *Environment Act*, S.N.S. 1994-95, c. 1, as amended.

“*Coal-fired Electricity Regulations*” means the *Reduction of Carbon Dioxide Emissions from Coal-fired Generation of Electricity Regulations, DORS/2012-167*, as amended.

“*Greenhouse Gas Emissions Regulations*” means Nova Scotia’s *Greenhouse Gas Emissions Regulations, N.S. Reg. 260/2009*, as amended.

## 2.0 EQUIVALENCY

2.1 Provisions that are in force by or under the laws of Nova Scotia, and in particular the *Environment Act* and the *Greenhouse Gas Emissions Regulations* are equivalent to the provisions of the *CEPA* and the *Coal-fired Electricity Regulations*, for the purposes of Section 10 of the *CEPA*, by reason of the fact that the following criteria have been met:

### A. Greenhouse Gas Emissions Levels

The effect on greenhouse gas emissions levels of the limits, determined in tonnes of carbon dioxide equivalent, that are applicable under the *Environment Act* and the *Greenhouse Gas Emissions Regulations* are assessed to be, for the calendar years 2015 to

2029, equivalent to the effect on greenhouse gas emissions levels of the limits imposed under the *CEPA* and the *Coal-fired Electricity Regulations*.

#### B. Resident's Request for Investigations

Sections 115 and 116 of the *Environment Act* provide a mechanism similar to that provided in sections 17 to 20 of the *CEPA* whereby an alleged offence will be investigated on the application of a resident, and a report shall be made by the provincial Minister of Environment to the applicant outlining the progress of the investigation and the action, if any, that is or will be taken.

#### C. Sanctions and Enforcement Programs

The penalty and enforcement provisions of the *Environment Act* are equivalent to the penalty and enforcement provisions in the *CEPA*.

### 3.0 INFORMATION-SHARING

3.1 The Parties will share information upon request respecting the administration of this Agreement in order to meet each Minister's respective reporting obligations to Parliament or to the people of Nova Scotia, as the case may be.

3.2 For the administration of this Agreement, Nova Scotia will provide to Canada on an annual basis as a minimum:

- (a) written notification of any relevant proposed and actual amendments to the *Environment Act* or the *Greenhouse Gas Emissions Regulations*;
- (b) reports on the quantity of electricity generated by each fossil fuel-fired electricity unit in Nova Scotia;
- (c) reports and compliance period reports required under section 5 and 6 of the *Greenhouse Gas Emissions Regulations* showing the quantity of CO<sub>2</sub>, and of total GHG emissions (in CO<sub>2</sub>e) released from each electricity generating unit in Nova Scotia;
- (d) copies of any orders issued, amended, or renewed under the *Environment Act* concerning the *Greenhouse Gas Emissions Regulations*; and
- (e) statistics on enforcement actions by Nova Scotia concerning the *Greenhouse Gas Emissions Regulations*.

3.3 For the administration of this Agreement, Canada will provide to Nova Scotia written notification of relevant proposed and actual amendments to the *CEPA* or the *Coal-fired Electricity Regulations*;

#### 4.0 CONDITIONS

4.1 As part of this Agreement, it is recognized that the *Greenhouse Gas Emissions Regulations* include the following mandatory greenhouse gas emissions limits for the electricity sector in Nova Scotia for the years 2020 to 2029:

- (a) for the calendar year 2020, not greater than 7.5 Mt of CO<sub>2</sub>e; and
- (b) for the calendar years 2021 to 2024, not greater than 27.5 Mt of CO<sub>2</sub>e cumulative total; and
- (c) for the calendar year 2025, not greater than 6 Mt of CO<sub>2</sub>e; and
- (d) for the calendar years 2026 to 2029, not greater than 21.5 Mt of CO<sub>2</sub>e cumulative total;

4.2 The Parties acknowledge that this Agreement is without prejudice to the form of any future agreement between the Parties on electricity.

#### 5.0 ENTRY INTO FORCE AND CONDITIONS FOR RENEWAL

5.1 This Agreement comes into force on January 1, 2020 provided that the Governor in Council has made an order pursuant to subsection 10(3) of the *CEPA* declaring that the provisions of the *Coal-fired Electricity Regulations* do not apply in Nova Scotia.

5.2 This Agreement terminates on December 31, 2024. This Agreement may be renewed in its current form such that any renewal expires no later than December 31, 2029. This Agreement may be terminated earlier by either Party giving the other at least three months' notice.

5.3 Should both Parties be in compliance with the Agreement on January 1, 2023, the Parties commit to initiate its renewal, provided that the effect on greenhouse gas emissions levels in the electricity sector in Nova Scotia of the limits to be imposed pursuant to the *Environment Act* and the *Greenhouse Gas Emissions Regulations* is equivalent to the effect on greenhouse gas emissions levels that would result from the application of the *Coal-fired Electricity Regulations* in Nova Scotia.

5.4 Should this Agreement be terminated before December 31, 2024, Canada will ensure that the *Coal-fired Electricity Regulations* start applying in Nova Scotia with as little disruption as possible in the circumstances, in a manner that takes into consideration the importance of a reliable supply of electricity that does not place an undue economic burden on Nova Scotia.

5.5 The parties are committed to negotiating a new or amended equivalency agreement for the period 2015-2040 that reflects the transition from coal to non-emitting electricity in Nova Scotia, provided that Nova Scotia has put in place an equivalent regulatory regime which gives rise to equivalent environmental outcomes.

#### 6.0 AMENDMENT

6.1 The Parties may amend this Agreement from time to time pursuant to the requirements under section 10 of the *CEPA*.

HER MAJESTY THE QUEEN IN RIGHT  
OF CANADA

AUG 26 2019

Date



HON. CATHERINE McKENNA  
Minister of the Environment

HER MAJESTY THE QUEEN IN RIGHT  
OF NOVA SCOTIA

Nov 14, 2019

Date



HON. GORDON WILSON  
Minister of Environment