

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

BETWEEN

THE GOVERNMENT OF CANADA
AS REPRESENTED BY THE MINISTER OF THE ENVIRONMENT
("CANADA")

AND

THE GOVERNMENT OF SASKATCHEWAN
AS REPRESENTED BY THE MINISTER OF THE ENVIRONMENT
("SASKATCHEWAN")

WHEREAS Canada and Saskatchewan ("the Parties") are parties to the Canada-Saskatchewan 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)*, dated November 22, 2016;

AND WHEREAS Saskatchewan promulgated the *Management and Reduction of Greenhouse Gases (General and Electricity Producer) Regulations (MRGG Regulations)*, made under section 84 of the *Management and Reduction of Greenhouse Gases Act*, on January 1st, 2018, which limit greenhouse emissions from the electricity generating sector in Saskatchewan for the period January 1, 2018 to December 31, 2029 to 175 Mt CO₂e;

AND WHEREAS SaskPower commenced operation of carbon capture and storage (CCS) at Boundary Dam unit 3 in 2014, in advance of the emission intensity performance standard of the *Coal-fired Electricity Regulations* for the unit which starts applying in 2020;

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 include a 420 t CO₂/GWh emission intensity performance standard applied to coal-fired electricity generating units that operate beyond the end of their useful life. The total modelled emissions from the electricity generating sector in Saskatchewan for the period of January 1, 2018 to December 31, 2029 are 176.7 Mt CO₂e;

AND WHEREAS section 10 of the *Canadian Environmental Protection Act, 1999 (CEPA)* sets out provisions on equivalency and 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;

NOW THEREFORE, the Parties agree:

1.0 DEFINITIONS

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

“*MRGG Act*” means Saskatchewan’s *the Management and Reduction of Greenhouse Gases Act*, S.S. 2010, c. M-2.01.;

“*MRGG Regulations*” means Saskatchewan’s *the Management and Reduction of Greenhouse Gases (General and Electricity Producer) Regulations*, January 1st, 2018;

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

2.0 EQUIVALENCY

2.1 Provisions that are in force by or under the laws of Saskatchewan, and in particular the *MRGG Act* and the *MRGG 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 *MRGG Act* and the *MRGG Regulations* are assessed to be, for the calendar years 2018 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 62.1 and 62.2 of the *MRGG 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 the 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 *MRGG 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 Saskatchewan, as the case may be.

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

- (a) written notification of any relevant proposed and actual amendments to the *MRGG Act* or the *MRGG Regulations*;
- (b) reports on the quantity of electricity generated by each fossil fuel-fired electricity unit in Saskatchewan;
- (c) reports on the quantity of CO₂, and of total GHG emissions (in CO₂e) released from each electricity generating unit in Saskatchewan;
- (d) reports on the performance of Boundary Dam unit 3 carbon capture and storage in Saskatchewan;
- (e) returns and other compliance period reports required under section 19 of the *MRGG Act*;
- (f) any auditing reports produced for the purposes of the *MRGG Act* concerning the *MRGG Regulations*;
- (g) copies of any orders issued, amended, or renewed under the *MRGG Act* concerning the *MRGG Regulations*; and
- (h) annual statistics on enforcement actions by Saskatchewan concerning the *MRGG Regulations*.

3.3 For the administration of this Agreement, Canada will provide to Saskatchewan, upon request, 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 *MRGG Regulations* include the following mandatory greenhouse gas emissions limits for the electricity sector in Saskatchewan for the years 2018 to 2029:

- (a) for the calendar years 2018 to 2019, not greater than 33.5 Mt of carbon dioxide equivalent; and
- (b) for the calendar years 2020 to 2024, not greater than 77 Mt (or 82 Mt if a carbon capture and storage system is installed at Boundary Dam units 4 & 5) of carbon dioxide equivalent; and
- (c) for the calendar years 2025 to 2029, not greater than 64.5 Mt of carbon dioxide equivalent.

4.2 Following the signature of this agreement, the Governor in Council will be authorized to make an order declaring that the provisions of the *Coal-fired Electricity Regulations* do not apply in Saskatchewan.

4.3 Saskatchewan confirms that, for the purposes of this Agreement and for complying with the *MRGG Regulations*, electricity producers will not be authorized to:

- use credits other than performance credits for electricity producers whose actual emissions for a compliance period were less than the emissions level prescribed for that emitter;
- use any tonnes of CO₂e allocated as a result of investment in a pre-certified investment;
- use any tonnes of CO₂e allocated with respect to early action;
- deduct any amount of CO₂e, allowed at the Minister's discretion, when calculating their greenhouse gas emissions;
- make compliance payments, such as payments to Saskatchewan Technology Fund Corp.

4.4 Saskatchewan agrees to meet a commitment to have at least 40% of the provinces' electricity generation capacity be from non-emitting energy sources by 2030. Saskatchewan agrees to meet this target with milestones for the range of percentages of the provinces' electricity generation capacity that is from non-emitting sources of a minimum of:

- 26 - 30% by December 31, 2021; and
- 30 - 34% by December 31, 2024; and
- 34 - 40% by December 31, 2027; and
- 40 - 50% by December 31, 2030.

4.5 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.

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.

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*.

02 MAI 2019
Date

HER MAJESTY THE QUEEN IN RIGHT
OF CANADA



HON. CATHERINE McKENNA
Minister of the Environment

May 3/19
Date

HER MAJESTY THE QUEEN IN
RIGHT OF SASKATCHEWAN



HON. DUSTIN DUNCAN
Minister of the Environment