



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

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 on Efforts to Address Climate Change dated January 25, 2010;

AND WHEREAS electricity sector regulation with respect to greenhouse gas emissions is a matter of importance to the Parties;

AND WHEREAS Canada has set out the following principles as a basis for the development of the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations*:

Maximizing emissions reductions:

Treating regions and regulatees equitably;

Avoiding setting an undesirable precedent for other sectors;

Minimizing stranded capital investments; and

Maintaining the consistency of a national regulatory approach;

AND WHEREAS the Parties wish, wherever possible, to avoid duplication of effort in controlling greenhouse gas emissions;

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;

AND WHEREAS the Parties agree to enter into an outcome-based equivalency agreement (the “Agreement”) regarding Canada’s *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations*, made under s.93 of the *Canadian Environmental Protection Act, 1999* (S.C. 1999, c.33) and published in the Canada Gazette, Part II, Vol. 146, No. 19 on September 12, 2012 (the “Regulations”),

AND WHEREAS the Parties acknowledge that this agreement is without prejudice to the position of either Party regarding legislative jurisdiction with respect to electricity sector regulation;

AND WHEREAS section 10 of the *Canadian Environmental Protection Act, 1999* 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 *Canadian Environmental Protection Act, 1999*, and provisions that are similar to sections 17 to 20 of the *Canadian Environmental Protection Act, 1999* for the investigation of alleged offences under environmental legislation of that jurisdiction;

AND WHEREAS the *Environment Act* and the *Greenhouse Gas Emissions Regulations* establish obligations having force of law;

AND WHEREAS section 342 of the *Canadian Environmental Protection Act, 1999* requires the Minister of the Environment to report annually to Parliament on the administration and enforcement of CEPA;

AND WHEREAS section 16 of the *Environment Act* requires the provincial Minister of Environment to report periodically to the people of the Province of Nova Scotia on the state of the environment in the Province;

NOW THEREFORE, the Parties agree:

1.0 DEFINITIONS

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

“*Environment Act*” means the *Environment Act*, S.N.S. 1994-95, c. 1, 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*¹ are equivalent to the provisions of the CEPA and the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations*², for the purposes of section 10 of CEPA, by reason of the fact that the following criteria have been met:

A. Emissions Requirements

(i) The effect on 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, for the calendar years 2015 to 2019, equivalent to the effect on emissions levels of the limits imposed under the CEPA and the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations*.

(ii) The effect on emissions levels of the limits, determined in tonnes of carbon dioxide equivalent, that will be applicable under the *Environment Act* and the *Greenhouse Gas Emissions Regulations* in accordance with section 4 of this Agreement will be, for the calendar years 2020 to 2030, equivalent to the effect on emissions levels of the limits imposed under the CEPA and the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations*.

B. Citizens’ 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 citizens, and a report shall be made by an administrator appointed under the *Environment Act* to the applicants outlining the progress of the investigation and the action, if any, that is or will be taken.

¹ N.S. Reg. 260/2009

² SOR/2012-167

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:

- (a) written notification of relevant proposed and actual amendments to the *Greenhouse Gas Emissions Regulations* and any other statutory and/or regulatory provisions relevant to this Agreement;
- (b) annual reports on the quantity of electricity generated by each coal-fired electricity unit in Nova Scotia;
- (c) annual reports and compliance period reports required under section 5 and 6 of the *Greenhouse Gas Emissions Regulations*;
- (d) copies of the orders issued, amended, or renewed under the *Environment Act* concerning the *Greenhouse Gas Emissions Regulations*;
- (e) approvals, including amendments and renewals of approvals; and
- (f) annual statistics on enforcement actions by Nova Scotia concerning the *Greenhouse Gas Emission Regulations*.

3.3 For the administration of this Agreement, Canada:

- (a) will provide to Nova Scotia written notification of relevant proposed and actual amendments to the *CEPA* and the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations* as well as any other statutory and/or regulatory provisions relevant to this Agreement; and
- (b) will enter into discussions with Nova Scotia toward a Memorandum of Agreement that would allow Canada to provide Nova Scotia with annual data on the quantity of greenhouse gas emissions from the electricity

sector in Nova Scotia collected by the Minister of the Environment under the CEPA.

3.4 Information gathered for the purpose of complying with this Agreement shall be subject to the provisions of the *Freedom of Information and Protection of Privacy Act*, SNS 1993, c5, and the *Access to Information Act*, RSC 1985, cA-1.

4.0 CONDITIONS

4.1 As part of this Agreement Nova Scotia agrees to amend its *Greenhouse Gas Emissions Regulations* to include mandatory caps or limits on greenhouse gas emissions for electricity producers covered under the *Greenhouse Gas Emissions Regulations* where that cap or limit:

- (a) for the years 2015 to 2019, is not higher than the cap or limit for that year as currently set out in the *Greenhouse Gas Emissions Regulations*;
- (b) for the year 2020 is no higher than 7.5 Mt; and
- (c) for the years 2021 to 2030, follows the pathway set out below:
 - i. For the calendar years 2021 to 2024, no higher than the cumulative amount of 27.5 Mt;
 - ii. For the calendar year 2025, no higher than 6 Mt;
 - iii. For the calendar years 2026 to 2029, no higher than the cumulative amount of 21.5 Mt; and
 - iv. For the calendar year 2030, no higher than 4.5 Mt.
- (d) These regulations will be in place on or before January 1, 2016.

4.2 Upon the coming-into-force of the amendment referred to in paragraph 4.1, the Minister of the Environment will recommend to the Governor in Council to make an order declaring that the provisions of the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations* do not apply in Nova Scotia.

4.3 The parties agree that, should they develop further regulations relating to GHGs and air pollutants affecting the electricity sector in Nova Scotia, they will use their best efforts to conclude an equivalency agreement respecting those regulations.

5.0 ENTRY INTO FORCE AND CONDITIONS FOR RENEWAL

5.1 This Agreement comes into force on July 1, 2015 provided that the Governor in Council has made an order pursuant to subsection 10(3) of the CEPA declaring that the provisions of the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations* do not apply in Nova Scotia.

5.2 This Agreement terminates on December 31, 2019.

5.3 Should both Parties be in compliance with the Agreement when it terminates, the Parties commit to initiate its renewal, provided that the effect on emissions levels of the limits to be imposed pursuant to the *Environment Act* and the *Greenhouse Gas Emissions Regulations* for the years 2020 to 2030 is equivalent to or better than the effect on emissions levels that would result from the application of the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations* in Nova Scotia during this period.

5.4 Should this Agreement be terminated before December 31, 2019, Canada will ensure that the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of 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.

HER MAJESTY THE QUEEN IN
RIGHT OF CANADA

Witness

Date

HON. PETER KENT
Minister of the Environment

HER MAJESTY THE QUEEN IN
RIGHT OF NOVA SCOTIA

Witness

Date

HON. STERLING BELLIVEAU
Minister of Environment