

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 subsection 93(1) 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 the CEPA, by reason of the fact that the following criteria have been met:

A. Greenhouse Gas Emissions Levels

(i) 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* is, for the calendar years 2015 to 2019, equivalent to the effect on greenhouse gas 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 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* is also expected to be, for the calendar years 2020 to 2030, equivalent to the effect on

¹ N.S. Reg. 260/2009

² SOR/2012-167

greenhouse gas emissions levels of the limits imposed under the CEPA and the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of 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 applicants 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:

- (a) written notification of relevant proposed and actual amendments to the *Environment Act* or the *Greenhouse Gas Emissions Regulations*;
- (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*; and
- (e) 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 or the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations*;
- (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, the *Greenhouse Gas Emissions Regulations* have been amended to include mandatory greenhouse gas emissions limits for the electricity sector in Nova Scotia for the years 2021 to 2030 where the emissions limits are:

- (a) For the calendar years 2021 to 2024, no higher than the cumulative amount of 27.5 Mt of carbon dioxide equivalent;
- (b) For the calendar year 2025, no higher than 6 Mt of carbon dioxide equivalent;
- (c) For the calendar years 2026 to 2029, no higher than the cumulative amount of 21.5 Mt of carbon dioxide equivalent; and
- (d) For the calendar year 2030, no higher than 4.5 Mt of carbon dioxide equivalent.

4.2 Given that Nova Scotia has amended the *Greenhouse Gas Emissions Regulations*, and given that the Minister of the Environment is satisfied that the effect of the *Greenhouse Gas Emissions Regulations* on greenhouse gas emissions levels is and will be equivalent to the effect on greenhouse gas emissions levels of the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations*, 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 greenhouse gases or air pollutants affecting the electricity sector in Nova Scotia, they will in good faith use their best efforts to conclude an equivalency agreement in respect of those regulations. If the regulation pertains to greenhouse gases, the Parties may choose to amend the present agreement and determine equivalency on the basis of a comparison of the aggregate impact of both the *Reduction of Carbon Dioxide from Coal-Fired Generation of Electricity Regulations* and any new federal regulation on electricity sector emissions in Nova Scotia with the impact of the *Greenhouse Gas Emissions Regulations* on electricity sector emissions in Nova Scotia.

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 makes 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 or 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 June 1, 2019, 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* for the years 2020 to 2030 is still considered equivalent to the effect on greenhouse gas emissions levels that would result

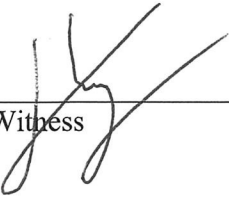
from the application of the *Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations* in Nova Scotia during this period.

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.

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



Witness

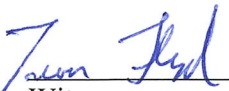
2014-05-26
Date



HON. LEONA AGLUKKAQ
Minister of the Environment

SCOTIA

HER MAJESTY THE QUEEN IN RIGHT OF NOVA



Witness

2014-05-22
Date



HON. RANDY DELOREY
Minister of Environment