



July 10, 2021

Hon. Jonathan Wilkinson
Minister of Environment and Climate Change Canada
351 Saint-Joseph Boulevard
Gatineau, Quebec
K1A 0H3
Via email: Jonathan.Wilkinson@parl.gc.ca

Dear Minister:

We want to alert you to our concerns about New Brunswick's proposed regulation [Phasing Out of Coal-fired Electricity Generation – Climate Change Act](#). We understand this regulation is the basis of negotiations with the Government of Canada on an equivalency agreement relating to its [Coal Phase-out regulation](#) as permitted under the *Canadian Environmental Protection Act, 1999* (CEPA). Our comments to you relate to concerns regarding the use of equivalency agreements when Canada is promoting its commitment to phasing out coal-fired electricity by 2030 within the [Powering Past Coal Alliance](#).

Our comments on New Brunswick's proposed regulation are included in the Appendix and include:

- Concerns relating to the lack of urgency required to stay within a global 1.5 degree carbon budget
- The lack of transparency limiting our capacity to determine whether NB Power's greenhouse gas cap actually is equivalent to coal phase-out by 2030
- Ensuring the right to investigation, and
- The lack of a provincial decarbonisation and electrification plan.

We believe that as it relates to the federal government, approving an equivalency agreement under CEPA is inconsistent with the requirements of the global carbon budget, but also runs counter to the spirit of Canada's promotion of coal phase-out in its work with the Powering Past Coal Alliance. Further, an equivalency agreement undermines Canada's credibility as the world prepares for critical climate negotiations at the 26th Conference of the Parties meeting in Glasgow this November.

We urge you to ensure the phase-out of all coal-fired electricity in Canada no later than December 31st, 2029. We further ask that you ensure any agreement with New Brunswick, should an equivalency agreement proceed, is transparent, protects the right to seek

investigation and requires completion of a province-wide decarbonisation and electrification plan.

Respectfully,

A handwritten signature in black ink that reads "Lois Corbett". The signature is written in a cursive, flowing style.

Lois Corbett
Executive Director

A handwritten signature in blue ink that reads "Louise Comeau". The signature is written in a cursive, flowing style.

Louise Comeau
Director Climate Change and Energy

Appendix

Gary Crossman
Minister of Environment and Climate Change
Marysville Place, P. O. Box 6000
Fredericton, NB, E3B 5H1

July 10, 2021

Submitted via email to: ELG-Reg@gnb.ca

RE: *Phasing Out of Coal-fired Electricity Generation Regulation – Climate Change Act, Equivalency Agreement regulation*

Dear Minister Crossman,

We submit these comments to you in response to the proposed regulation [Phasing Out of Coal-fired Electricity Generation – Climate Change Act](#). We understand this regulation is the basis of negotiations with the Government of Canada on an equivalency agreement relating to its [Coal Phase-out regulation](#) as permitted under the *Canadian Environmental Protection Act, 1999* (CEPA). Our comments relate to concerns regarding the use of equivalency agreements, lack of transparency, right to investigation, and lack of a provincial decarbonisation and electrification plan. We begin our submission setting the provincial context within the global carbon budget.

Summary

- Acknowledge that burning fossil fuels beyond 2030 to generate electricity does not comply with the global carbon budget, increases provincial carbon liabilities, and could increase costs for ratepayers relative to non-polluting options like renewable and storage technologies.
- Amend the proposed equivalency agreement to:
 - Increase transparency through inclusion of the reference case and emissions reduction calculations, broken out by year to 2040 to demonstrate equivalency relative to the reference case and allow for stakeholder review.
 - Require NB Power to prepare and publicly release its proposed plan for achieving its equivalent greenhouse gas reductions.
 - Require public release of NB Power annual and compliance reports.
- Affirm citizens' rights to petition the Minister to investigate offences under the equivalency agreement regulation.
- Develop a decarbonization and electrification strategy for the province to support the rapid transition to a non-polluting electricity system.

New Brunswick needs to align with the 1.5 degree Celsius global carbon budget

The world must cut greenhouse gas emissions drastically over the next few years to avoid 1.5 degrees average warming. We need to remember that as a northern country, Canada faces double the warming of these global averages. As you know Minister, we already face drastic increases in heat waves, forest fires and flooding from only 1.1 degrees global warming (a level that has meant 2 to 3 degrees of warming in Canada), mostly since the 1970s. Natural Resource Canada's 2021 Impacts Assessment [report](#) reminds us that climate change is already costing about \$2-billion a year, with social and psychological damage taking a mental health toll.

The International Energy Agency's recent [Net Zero by 2050](#) scenario explores options to keep global greenhouse gas emissions to levels that avoid 1.5 degrees global average warming. The scenario paints a stark picture of just how rapidly we must phase out the use of fossil fuels to avoid even more dangerous climate change. The IEA scenario shows the phase-out of unabated coal-fired electricity no later than 2030.

New Brunswick remains too passive with respect to reducing greenhouse gas emissions because the province is currently in line with recently announced federal greenhouse gas emissions targets for 2030 (40 to 45 per cent below 2005). Canada's and New Brunswick's greenhouse gas emissions target needs to be closer to 50 to 60 per cent to ensure we do our fair share and put us on track to zero emissions. We can, and should, expect federal targets to increase again well before 2030.

The plan to run the Belledune coal plant beyond 2030, along with NB Power's Integrated Resource Plan suggesting all oil, coal and natural gas plants will operate into the 2040s expose the province and ratepayers to higher carbon liabilities due to federal regulations (existing and upcoming) and a higher carbon price. The faster New Brunswick transitions to renewable energy and storage technologies are not only better for emissions, but also ratepayers.

Concern about the use of equivalency agreements

Climate Action Network Canada has identified [several concerns](#) about the use of equivalency agreements to comply with CEPA regulations. These concerns relate to inconsistent application of equivalency agreements across the country, allowing emissions reductions outside the sector regulated for compliance, failure to consider the social and environmental effects of equivalency agreements, lack of a clear and consistent legislative equivalency test and definition in CEPA, and lack of transparency. We echo these concerns and call on the province to re-consider the use of equivalency agreements. At minimum, the province should ensure its own equivalency-agreement regulation meets best practice.

Lack of transparency

The province's draft equivalency-agreement regulation does not represent best practice, particularly as it relates to transparency:

1. The draft regulation does not include the detail required to allow stakeholders to assess equivalency. The regulation should include all calculations used to develop the proposed

greenhouse gas cap, broken out by year, and clearly show how the cap is equal to the greenhouse gases that would have occurred with full coal phase-out compliance by December 31, 2029. These calculations should clearly show how they compare to Environment and Climate Change Canada (ECCC) reference projections out to 2040.

2. There is no plan for achieving the greenhouse gas reductions implied by the cap. The regulation should require NB Power to publically demonstrate how it expects to achieve the cap, broken out by option, including what's expected from lower production at Belledune, increased production at the Bayside natural gas plant, energy efficiency, renewable energy, and small modular nuclear reactors.
3. There is no provision to require annual reports and compliance reports to be public.

How are stakeholders to assess equivalency with so little information publically available?

Application for investigation of an offence

We also note, that like equivalency agreements with [Alberta](#), [Saskatchewan](#), and [Nova Scotia](#), any equivalency agreement with the Government of Canada should affirm a citizen's' right to apply to the Minister for an investigation of any offence under this regulation through reference to relevant sections in CEPA (Sections 17 to 20) and the Climate Change Act (Sections 7.6 (1,2) and Section 7.61. For reassurance, the New Brunswick equivalency agreement regulation should note that this underlying right through reference to Sections 7.6 (1, 2) and 7.61 of the New Brunswick [Climate Change Act](#).

Need for a decarbonization and electrification strategy

New Brunswick's lack of urgency with respect to greenhouse gas emissions has lead to a reactive, rather than proactive approach, particularly as it relates to federal regulation. The province is responding to each federal regulation as one-off irritants, rather than setting us on a strategic path to a non-fossil-fuel future. A soon-to-be-released clean electricity regulation setting the country on a course to a zero emitting electricity system, for example, will complement federal coal phase-out and out-based pricing system regulations. We know a zero emitting world will also be a world powered by electricity, with some energy scholars suggesting electricity consumption will double in Canada by 2050.

The province needs a decarbonisation and electrification plan laying out options and strategies for achieving our zero greenhouse gas emissions goals. IEA and [US modeling](#) show renewable energy and storage technologies will comprise a large proportion of our electricity supply in the future and do so reliably and at least cost. New Brunswick needs a decarbonisation and electrification plan that reduces its carbon liabilities and relies primarily on technologies we can deploy this decade. Relying on speculative plans for small modular nuclear reactors in the late 2030s is not a decarbonisation plan.

We look forward to a positive response to our recommendations through an amended regulation.

Respectfully,



Lois Corbett
Executive Director



Louise Comeau
Director Climate Change and Energy Solutions

Endorsing groups:

David Suzuki Foundation
Ecology Action Centre
Sierra Club Atlantic
Coalition for Responsible Energy Development
Penniac Anti-Shale-Gas Organization
New Brunswick Anti-Shale Gas Alliance, Inc.
Knowlesville Art & Nature Centre
Canaan-Washademoak Watershed Association
Sustainable Energy Group
Rural Action and Voices for the Environment
Water & Environmental Protection for Albert County
Imaginons la Péninsule acadienne autrement
Saint John Chapter of the Council of Canadians
Symbiose FÉÉCUM
Leap4Wards