

***Environmental Goals and Sustainable Prosperity Act:  
Setting Stringent and Long-term GHG Emission Reduction  
Targets in Nova Scotia***

**Final Report**

06 April 2018

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If a discrepancy occurs between government policies, statutes or regulations and this document, the government-authorized documents will apply.

For official legislative provisions, consult the relevant policy documents, statutes and regulations referenced in the Report.

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## Executive Summary

This report is a review of the *Environmental Goals and Sustainable Prosperity Act (EGSPA)* and Nova Scotia's related legislative and policy framework with a view to determine if and how *EGSPA* may be used to legislate ambitious and long-term greenhouse gas (GHG) emission reduction targets beyond 2020. The review addresses how *EGSPA* accords with the province's new Cap and Trade Program and highlights those aspects that may support the Ecology Action Centre's climate justice work. Ultimately, the review asks: (a) What, if any, GHG emission reduction targets are binding on the Nova Scotia government? and (b) What legal avenues are available to legislate long-term GHG emission reduction targets?

Nova Scotia's GHG emissions have continued to decline since 2007. In 2013, its emissions were 9% below the 1990 baseline levels.<sup>i</sup> Currently, the only GHG emission reduction targets that are binding on the Nova Scotia government are the goals set out in *EGSPA*: a reduction of 10% below 1990 levels by 2020. The Nova Scotia government has already achieved this target.

In its current form, *EGSPA* sets out, among other things, GHG emission reduction goals that the Nova Scotia government has a legal and binding responsibility to achieve. There are no goals past the 2020 target. *EGSPA* does not require further GHG emission reduction goals to be set. *EGSPA* neither creates obligations nor gives the Minister authority to enforce obligations that were created under it related to how its targets will be met. *EGSPA* could be amended to provide new legislated GHG emission reduction goals or targets beyond 2020. There is nothing preventing long-term targets for 2030 or 2050 being set out in *EGSPA*.

On the other hand, the provincial Cap and Trade Program is one mechanism by which new GHG emission reduction targets in *EGSPA* may be achieved. The Cap and Trade Program allows the government to monitor and enforce a system that holds single emitters responsible for their share of provincial GHG emissions.

The Cap and Trade Program, taken together with all other strategies, policies and programs, must be enough to meet or exceed any GHG emission reduction targets set out in *EGSPA*. If the government's strategies, policies and programs do not meet the targets set out in *EGSPA*, the government will have failed to meet its legal responsibility under the law. On the other hand, if a GHG emitter does not comply with the Cap and Trade Program (or any other program created by law to reduce GHG emissions), the government can take action against that emitter.

The best way to create legally binding GHG emission reduction targets is to place them into *EGSPA* through an amendment to the statute. Any subsequent mechanisms to enable achievement of the targets or to necessitate increasing stringency of emissions caps under the Cap and Trade Program would be best provided for through regulations created under the *Environment Act*.

## 1.0 Introduction

### 1.1 Research Questions

In 2007, the Nova Scotia government created the ***Environmental Goals and Sustainable Prosperity Act*** (“EGSPA”). The Act has both environmental and economic objectives, including establishing clear goals to foster an integrated approach to environmental sustainability and economic well-being, and improving the measures of success for social, environmental and economic indicators of prosperity.<sup>ii</sup>

According to section 6 of EGSPA, a comprehensive public review of the Act is to be completed every five years. The last review was completed in 2012, and it resulted in a series of amendments to the original Act. The current review began in 2017 and is expected to be complete in 2018. In an effort to better understand the potential role of EGSPA in achieving significant reductions in greenhouse gas (“GHG”) emissions, the Ecology Action Centre (“EAC”) and the East Coast Environmental Law Association (“ECELAW”) have partnered to conduct a review of EGSPA, related legislation and policy instruments, and the general legislative framework that informs Nova Scotia’s climate change mitigation strategy.

ECELAW and the EAC have identified three key research questions pertaining to this review, which are stated as follows:

**Question 1:** Are there legal opportunities to set new goals as EGSPA is being reviewed, including setting new GHG emission targets beyond 2020?

- 1) What is the legal nature of Nova Scotia’s commitments in the New England Governors / Eastern Canadian Premiers’ Climate Change Action Plan to a 35-45% reduction of GHG emissions?
- 2) What is the minimum level of ambition on GHG targets that Nova Scotia is legally bound to beyond the year 2020?

**Question 2:** To what extent does EGSPA address the reduction and management of greenhouse gas emissions, and how does the Act accord with Nova Scotia’s Cap and Trade Program?

- a. Does the Carbon Pricing Benchmark set by Environment and Climate Change Canada, together with references to “legislated increases in stringency” within the Pan-Canadian Framework for Clean Growth and Climate Change, mean that Nova Scotia is obligated to create a mechanism in its Cap and Trade system that requires decreasing and incremental GHG emission reduction targets?

- b. To what extent, if any, is the Nova Scotia government bound by its statements in the Nova Scotia Legislature to setting GHG emission reduction targets beyond 2022?

**Question 3:** What other aspects of *EGSPA* are significant in the context of the Ecology Action Centre’s climate justice project, in particular the elements of a just transition and green economy?

## 1.2 General Background to Greenhouse Gas Emission Reduction Targets & Goals

The most common way to reduce GHG emissions is to set GHG emission reduction targets using a baseline against which current GHG emissions are measured. The most commonly used baseline is the relevant level of GHG emissions from the year 1990. This is the baseline used in the **Paris Agreement**, which is the United Nations agreement adopted in 2015 to deal with GHG emission adaptation, mitigation and financing.<sup>iii</sup> Emission levels are measured in Megatonnes (Mt) of Carbon dioxide equivalent (CO<sub>2</sub>e). For example, one of the GHG emission reduction targets in Nova Scotia under *EGSPA* is a 10% reduction below 1990 levels by 2020. Nova Scotia emitted approximately 19.815Mts of CO<sub>2</sub>e in 1990, meaning there needs to be a reduction of approximately 1.9Mt of CO<sub>2</sub>e by 2020.<sup>iv</sup>

Table 1.1 is a summary of GHG emissions in Nova Scotia to date.

**Table 1.1 – Nova Scotia Greenhouse Gas Emissions Estimates by Year<sup>v</sup>**

<u>Year</u>	<u>Total GHG Emissions by CO<sub>2</sub>e (Mt)</u>
<b>1990</b>	<b>19.8</b>
2000	22.2
2001	21.3
2002	20.5
2003	22.3
2004	24.0
2005	23.2
2006	21.9
2007	23.6
2008	21.0
2009	20.4
2010	20.3
2011	21.0
2012	19.4
2013	18.4
2014	16.5
2015	16.2
2018	16 ~

Chart 1.1 shows GHG emission trends since 1990. Emissions have decreased every year since 2011, although GHG emission reductions have stagnated since 2014.

**Chart 1.1 – Nova Scotia Greenhouse Gas Emissions Trends**

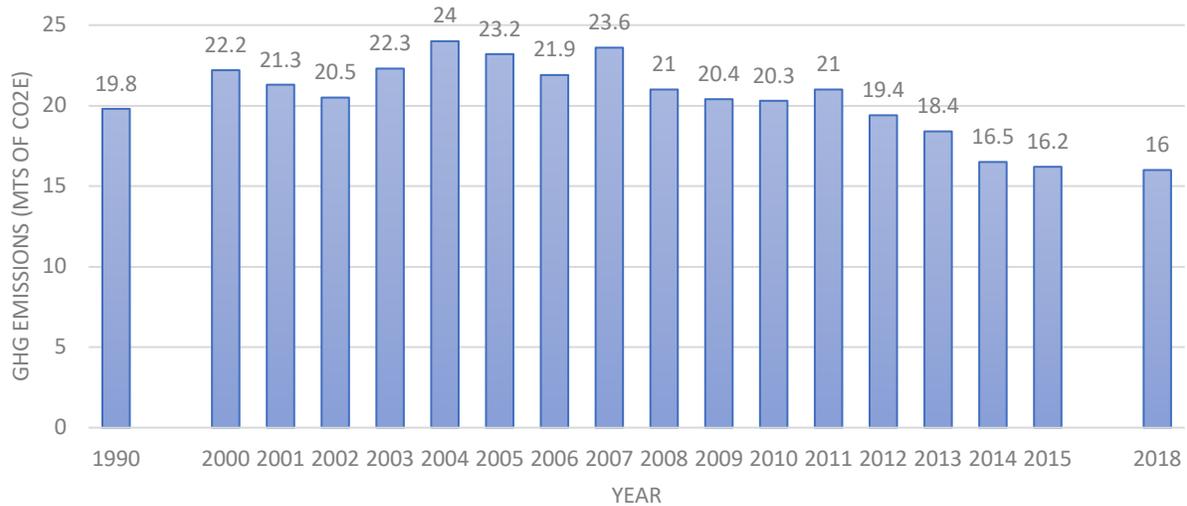


Table 1.2 is a summary of various GHG emission reduction targets set out in provincial, federal and international instruments. The baseline for any GHG emission reduction target is important because it is the single point against which targets and goals are measured. It is also important to highlight that the baselines change depending on the legal or policy instrument used to set the GHG emission reduction target.

**Table 1.2 Summary of Nova Scotia GHG Emission Reduction Targets**

<u>Year</u>	<u>Total GHG Emissions by CO<sub>2</sub>e (Mt)</u>	<u>Target</u>
2020	17.8	10% below 1990 levels (EGSPA Target)
2030	16.2	30% below 2005 levels (PCF Target)
2030	12.9 – 10.9	35-45% below 1990 levels (CCAP Target)
2030	10 (approx.)	50% below 1990 levels (EAC-Proposed Target)
2050	4.1	80% below 2009 levels (NS CCAP Target)
2050	5.3 – 3.2	75-85% below 2001 levels (CCAP Target)
2050	0	100% below any level (Ideal Target)

Having different baseline years can result in confusion and make it difficult to ascertain whether GHG emission reduction targets and goals are truly being met.

**Recommendation #1:** *The baseline for all GHG reduction targets should be 1990 and a direct reference to 1990 or the baseline of 19.815Mt of CO<sub>2</sub>e should be made in any legislation that sets out GHG emission reduction targets.*

## 2.0 Nova Scotia's Legislative Framework and Discussion

### 2.1 The Nova Scotia Climate Change Legal Framework

Nova Scotia released its **Climate Change Action Plan** in 2009. The Plan includes a long-term goal to reduce GHG emissions by 80% of 2009 levels by 2050.<sup>vi</sup> A year later, the Nova Scotia government entered into the **Canada-Nova Scotia Agreement in Principle on Efforts to Address Climate Change**. This resulted in an equivalency agreement between the provincial and federal government requiring Nova Scotia to meet or exceed federal GHG emission reduction targets for electricity producers.<sup>vii</sup>

Recently, provincial ministers and the federal government met in Vancouver to agree to the **Pan-Canadian Framework on Clean Growth and Climate Change** ("PCF"). The ministers agreed to take action to meet or exceed Canada's (federal) 2030 target of a 30% reduction in GHG emissions below 2005 levels. They issued the **Vancouver Declaration** and agreed to take a collaborative approach to reducing GHG emissions. Nova Scotia endorsed the PCF on December 9, 2016.

The *Vancouver Declaration* is the instrument that helps to guide the PCF. In the Declaration, provincial ministers agreed to increase their levels of ambition in accordance with the *Paris Agreement's* goal of limiting global average temperature rise to no more than 2.0 °C higher than pre-industrial levels.<sup>viii</sup> The end goal of the *Paris Agreement* is de-carbonization by 2050 or beyond. The commitments by the ministers to this extent include:

- Implementation of GHG emission mitigation policies in support of meeting or exceeding Canada's 2030 target of 30% reduction by 2005 levels; and
- Increasing the level of ambition of environmental policies over time in order to drive greater GHG emissions reductions, consistent with the *Paris Agreement*.<sup>ix</sup>

Furthermore, the provincial ministers agreed to implement "a collaborative, science-based approach to inform Canada's future targets that will increase in stringency as required by the Paris Agreement".<sup>x</sup>

The PCF established that carbon pollution pricing would be the central component of the Framework and that carbon pricing should be implemented in a predictable and gradual manner so as to limit economic impacts.<sup>xi</sup> To reflect the Framework's principles and the *Vancouver Declaration*, the federal government outlined a Carbon Pricing Benchmark to be implemented by 2018 (Annex I). The Benchmark aims to ensure that carbon pricing will apply to a broad set of emission sources throughout Canada and that the pricing will be increasingly stringent over time. Under the benchmark, stringency may be increased through rising prices or declining caps.<sup>xii</sup> The overall approach of the Framework will be reviewed by 2022.<sup>xiii</sup>

In our opinion, the purpose of the “legislated increases in stringency” component of the Framework is to contribute to the national GHG emission reduction target and provide for market certainty and stability.<sup>xiv</sup> As is stated in the Backgrounder to the PCF, provinces that choose a cap-and-trade regime will need to: (a) set a 2030 GHG emission reduction target equal to or greater than Canada’s 30% reduction below 2005 levels target, and (b) “implement declining (more stringent) annual caps to at least 2022 and that correspond, at a minimum, to the projected emissions reductions resulting from the carbon price that year in price-based systems”.<sup>xv</sup>

The stringency requirement set out in the PCF appears to require declining annual GHG emissions caps to facilitate declining total emissions for the province, rather than increased emission reduction targets. As a result, declining annual caps could simply result in achieving the minimum total GHG emission reduction goal.

It may be possible to link the stringency requirements to the increased efforts to reduce emissions beyond the 2030 target set out in the Pan-Canadian Framework, by: (a) linking the declining annual GHG emissions caps to a long-term goal, which could be set out in *EGSPA*; or (b) creating a new stringency mechanism in regulations created under the *Environment Act* (in addition to the declining annual caps) that would require increased GHG emission reduction goals once current goals in *EGSPA* have been reached.

The **PCF Approach to Pricing Carbon Pollution** was published on October 3, 2016. The document outlines the principles for carbon pricing and states that a pricing system that meets all of the elements of the federal Benchmark must be implemented in all jurisdictions by 2018. In terms of “legislated increases in stringency”, the federal guidance on pricing states that it is “[b]ased on modeling, to contribute to our national target and provide market certainty”. Furthermore, for provinces with a cap-and-trade system, it states that caps must cover a broad base of emissions comparable to British Columbia’s carbon tax, caps must decline in time and result in incremental reductions, and caps cannot be adjusted upwards in order to accommodate large new activities.<sup>xvi</sup>

The language found in the PCF suggests that in order to legally require certain emission reduction targets, it would be necessary to determine what caps are required in order to meet that target, and have those caps legislated. This would indirectly result in the desired targets being facilitated through the legislation.

***Recommendation #2:*** *Current stringency requirements will not necessarily facilitate increased GHG emission reduction goals. All declining GHG emissions caps under the Cap and Trade Program should explicitly refer or be connected to specific GHG emission reduction targets in either EGSPA or the Cap and Trade regulations made under the Environment Act.*

The Government of Canada has released supplemental guidance for the pricing benchmark related to its stringency requirement. This guidance indicates that:

- A reserve should be established from which emission allowances can be released to moderate sudden pressures in the market that could significantly and rapidly change prices to capped participants, including new entrants.
- The system should include other measures to support price predictability and market stability, including auction floor prices that increase consistently.<sup>xvii</sup>

**Conclusion #1:** *Based on the history and objectives of the Cap and Trade system in Nova Scotia, and the broader federal climate change strategy, the Nova Scotia Cap and Trade system regulations are not the only mechanism through which the GHG emission reduction goals set by EGSPA can or will be achieved. For example, the Cap and Trade Program will only cover approximately 90% of the province's GHG emissions, so any remaining GHG emission reductions required to bring the province into compliance with EGSPA can be made through other means. This allows the total GHG emission reductions under Cap and Trade to fall below the GHG emission reductions required overall within the province.*

The PCF also has requirements for reporting and oversight. Specifically, the Framework requires that the provinces continue to report and assess the effectiveness of their actions, “with a view to ensuring continual improvement so as to increase ambition over time, in accordance with the *Paris Agreement*”.<sup>xviii</sup> Article 3 of the *Paris Agreement* sets out this increasing ambition as follows:

As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11, and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support development country Parties for the effective implementation of this Agreement.

The *Paris Agreement* supplements this provision with the following additional guidance:

Each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.<sup>xix</sup>

Since the *Paris Agreement* is reflective of the majority of the world's states stance on effective climate change mitigation, the Nova Scotia government would do well to take notice. And as is discussed further below, *EGSPA* allows for reference to be made to any national or international agreement that has as its objective the reduction of GHG emissions.

**Conclusion #2:** *There is recognition both within the Pan-Canadian Framework for Clean Growth and Climate Change and the Paris Agreement that there is a need for continuous*

*improvement of GHG emission reduction goals, regardless of the point at which the process began. The recognition of the importance of stringency measures should influence the Nova Scotia government to establish more stringent GHG emission reduction targets.*

Finally, it should be noted that within the province, each municipal climate change action plan identifies climate-related matters that have potential to damage communities and takes a priority-based approach to address identified problems.<sup>xx</sup> This can serve as a further potential mechanism through which GHG emission reduction targets can be given greater momentum.

**Conclusion #3:** *Municipalities can play a role in helping to drive or facilitate greater GHG emission reduction goals, in spite of potential lax provincial standards or goals.*

## 2.2 The Environment Act and the Nova Scotia Cap and Trade Program

In anticipation of the federal requirement to have a provincial carbon pricing system in place by 2018, the Nova Scotia government tabled Bill 15 in October 2017 to make amendments to section 8 of the *Environment Act*. The amendments gave the Minister the power to create regulations in relation to “the administration of the Cap and Trade Program [...] as defined in subsection 112(1)”. The amendments were proclaimed in force on February 15, 2018.

Unlike a carbon tax, which is a direct tax on fossil fuels, a Cap and Trade system places a “cap” on the total amount of GHG emissions allowed accumulatively within the province. Participants within the system are given emission allowances equal to 1 tonne of CO<sub>2</sub>e. Participants can buy more allowances from others where they will exceed their allowance. Over time, the GHG emissions cap in the province is lowered, meaning fewer allowances are available. Its purpose is to incentivize participants to reduce GHG emissions to limit the cost of buying allowances or contravening the legislation and being penalized.

Nova Scotia’s proposed Cap and Trade Program will regulate approximately 90% of Nova Scotia’s emissions and have an emissions cap based on the federal carbon pricing benchmark of \$10 per tonne of CO<sub>2</sub>e, which will rise to \$50 per tonne of CO<sub>2</sub>e by 2022.<sup>xxi</sup> Nova Scotia’s previous approach to climate change and GHG emission reductions had focused mainly on the electricity sector (as seen by the fact that the Canada-Nova Scotia Equivalency Agreement pertained only to electricity producers).

Prior to the creation of the Nova Scotia Cap and Trade Program, **Greenhouse Gas Emissions Regulations** were created under the *Environment Act* to set hard caps on GHG emissions from facilities producing and selling electricity.<sup>xxii</sup> These regulations set out compliance periods and emissions caps. There are currently nine compliance periods, with each period represented by a range of years and accompanied by an emissions cap for all facilities in the province. The periods each have an associated CO<sub>2</sub>e emissions cumulative total (the cap).

Section 112B of the newly amended *Environment Act* requires the provincial Governor in Council (the Lieutenant Governor acting on the advice of the Executive Council) to prescribe

provincial greenhouse gas emission reduction targets “for such periods as the Governor in Council considers appropriate”.<sup>xxiii</sup> The provision goes on to state that:

The targets prescribed pursuant to subsection (1) may include specific greenhouse gas emission reduction or emission-limitation targets for such classes of activities as the Governor in Council considers appropriate.<sup>xxiv</sup>

Additionally, the provision states that when establishing the targets, the Minister may consider:

- a) the characteristics of the greenhouse gases [...]
- b) advances in climate change science and technology;
- c) the economic, social and environmental consequences of climate change and the likely impact of the greenhouse gas emissions reduction or limitations needed to achieve the target; and
- d) greenhouse gas emission reduction goals established pursuant to any program, policy, or strategy to mitigate climate change or any intergovernmental agreement or international agreement applicable to the Province and made for the purpose of mitigating climate change.<sup>xxv</sup>

The language present in these provisions of the *Environment Act* suggests that there are no obligations for the government to set long-term goals. Both the targets and periods are entirely discretionary. Furthermore, the Minister is not obligated by these provisions to consider any GHG emission reduction targets found in other legal or non-legal instruments, although the Minister can consider them when creating the emissions caps and targets.

**Conclusion #4:** *The Nova Scotia Cap and Trade Program has no binding GHG emission reduction targets other than those that will be set in regulations in the Spring of 2018 at the Minister’s discretion.*

**Recommendation #3:** *The Nova Scotia government should be politically pressured to consider including as many GHG emitting activities under the regulations as possible and to set targets based on the long-term goals under the Paris Agreement.*

Finally, the **Quantification, Reporting and Verification Regulations** (“Verification Regulations”) were created under the *Environment Act* to set out the specific GHG-emitting activities that are engaged by the Cap and Trade Program, along with specific requirements for quantifying and reporting GHG emissions.

**Conclusion #5:** *The Cap and Trade Program will not cover all GHG emissions in the province, as opposed to EGSPA, which does cover the province’s total GHG emissions.*

### 2.3 Environmental Goals and Sustainable Prosperity Act (EGSPA)

The *Environmental Goals and Sustainable Prosperity Act* was established in 2007 with a vision of

integrating environmental sustainability and economic prosperity. *EGSPA* does this through legislated goals that are specifically set out in the legislation. Initially, *EGSPA* was strongly targeted at achieving environmental sustainability and protection. Following its first five-year review, *EGSPA* became more focused on closely integrating environmental protection and economic growth.

Each year, a progress report is released for *EGSPA* to provide a running review of the progress made under the Act. These reports have been favourably written to highlight the work done in Nova Scotia to reduce GHG emissions. For example, one report noted that Nova Scotia's GHG emissions in 2014 were 17% below 1990 levels. *EGSPA*'s goal is to reduce GHG emissions to a level 10% lower than the 1990 level by 2020.<sup>xxvi</sup> This means that the goals set out in *EGSPA* have already been exceeded. Yet, no further goals have been created.

Beyond the GHG emissions targets mentioned above, *EGSPA* contains very little in terms of legislated goals and targets for reducing GHG emissions or combating climate change. There are specific legislated reduction targets for emissions of nitrogen oxides: (a) 20 per cent by 2009, (b) 28 per cent by 2015, and (c) 44 per cent by 2020, relative to emissions in 2000. There are no GHG emission reduction targets in *EGSPA* beyond 2020.

There are several ways that *EGSPA* could create new GHG emission reduction targets. The first method involves amending the current legislated targets to include new, more stringent goals for desired target years. The amendment could include long-term emission reduction goals, or it could simply provide one total emission reduction goal by a certain deadline (for example, 2050).

***Recommendation #4:** EGSPA should be amended to include incremental GHG emission reduction targets for 2030 and 2050 to better clarify its long-term emission reduction goals and provide greater certainty and planning opportunities for business. The details on how the targets should be met should be included in the Environment Act or its regulations.*

Amendments to *EGSPA* could also take the form of incorporation of or reference to the *Paris Agreement*, or another policy or legal agreement, in order to set out long-term GHG emission reduction goals. As an example, on October 3, 2017, MLA Kim Masland introduced **Bill 23** into the Nova Scotia Legislature. The private member's bill provides for amendments to *EGSPA* to create a new goal under section 4(2) to ensure GHG emissions are compliant with the intent and goals agreed to in the *Paris Agreement* by 2030.

Amendments could also be made to *EGPSA* to include an automatic review and updating of goals specific to GHG emission reductions when a target is reached. This would mean that less of a lapse would occur between when targets are reached and new targets created. The review of specific targets could be triggered by the annual reporting process, which is already set up to determine progress made towards targets. When a target is reached, the Round Table

responsible for reviewing *EGSPA* (discussed below) could be given additional authority under *EGSPA* to determine whether and what new targets are appropriate.

**Conclusion #6:** *The annual reporting structure in EGSPA that is used to determine progress made towards the Act's goals could be used as a triggering mechanism to require automatic review and implementation of new GHG emission reduction targets as previous targets are met.*

Finally, amendments could be made to section 3(2) of *EGSPA*, which sets out the “foundation and principles” of the Act. This section could be amended to better reflect a desire to achieve GHG emission reductions in an equitable manner. For example, the legislation could make reference to the above-noted “progression beyond the Party's then current nationally determined contribution” found in the *Paris Agreement*. These amendments could set out principles to better guide the creation of subsequent goals once initial GHG emission reduction targets are met. Another important principle that could be included in the legislation is the Non-Regression Principle, which states that existing laws and regulations serve as a baseline and will not be repealed.

**Recommendation #5:** *EGSPA should be amended to include more principles related to long-term stability and increasing GHG emission reductions.*

The second way to introduce new GHG emission reduction targets using *EGSPA* is to use the regulation-making authority of the Governor in Council to either establish interim emission reduction targets or to create a mechanism to allow additional emission reduction goals to be added periodically. The use of regulations under *EGSPA* was considered and recommended by the Round Table during its first review of *EGSPA*.<sup>xxvii</sup> Specifically, section 9 allows regulations to be made “respecting the manner in which greenhouse gas emission targets are established for the purpose of Section 4” (the section that sets goals for emission reductions).

A mechanism to create interim emission reduction targets could allow for non-binding, aspirational goals to continue to guide the process: (a) while new targets are created and legislated; or (b) until another review of *EGSPA* is triggered, causing new targets to be legislated. Regulations under *EGSPA* would allow flexibility for change. This is because the process for amending or changing regulations, or replacing regulations with new ones, does not require the same lengthy legislative process as amendments to the enabling legislation (the law that gives authority to create regulations). For example, if targets under *EGSPA* were met or if circumstances (political or otherwise) allowed for more ambitious targets, it would potentially be quicker to introduce new GHG emission reduction targets in a regulation rather than in *EGPSA*.

**Conclusion #7:** *If EGSPA was not directly amended to include additional GHG emission reduction targets, regulations could be made under EGSPA to set interim targets.*

The drawback to having goals set out in regulations is the risk that they will be repealed or clawed back through amendment. Again, this would require less oversight and review than goals set out in the legislation itself.

Alternatively, regulations made under *EGSPA* can be used to adopt or incorporate by reference any written standard, rule, guideline, designation or document related to any matter for which a regulation under *EGSPA* can be made.<sup>xxviii</sup> This means that agreements like the NEG/ECP CCAP or the *Paris Agreement* could be incorporated into *EGSPA* through regulations as a way to supplement and further inform any new emission reduction goals. The only real benefit to incorporating or referencing other agreements in the regulations is that it would allow any new agreements (international, federal, or otherwise) to be quickly added or removed.

However, *EGSPA* provides little capacity to actually enforce regulations made under it. Instead, the *Environment Act* would be the appropriate legislation under which to make regulations requiring increased stringency measures that necessitate increasing GHG emission reduction targets as they are met.

***Recommendation #6:*** *Regulations made under section 155 of the Environment Act are the appropriate place to implement the goals under EGSPA because, unlike EGSPA, the Environment Act has the necessary mechanisms to allow the Minister to enforce its provisions.*

Finally, section 7 of *EGSPA* allows the Governor in Council to establish or participate in programs and other measures to carry out its purposes. That includes programs whose purpose is reduction of GHG emissions. Furthermore, section 8 allows the Governor in Council to enter into any agreements with the Government of Canada, another province, or any other person for the purpose of cooperative, complementary or compatible GHG emission reduction goals. *EGSPA* does not speak about the legal enforceability of any program, measure or agreement to which the Nova Scotia government becomes a party for the purpose of reducing emissions.

The *EGSPA* review process is conducted by the **Round Table on the Environment and Sustainable Prosperity** (“Round Table”), created under section 9 of the *Environment Act*. The review process involves a “comprehensive public review” of both the Act and its regulations. There is no definition or description of what a comprehensive public review entails, but, in the past, it has included public consultations with stakeholders and members of the public.

During the first five-year review of *EGSPA*, the Round Table noted that “two of the best indicators of success will be the jobs and economic opportunities associated with the development path charted by the Act”. The Round Table encouraged the government to recognize activities that support implementation of the Act “as an investment in our future” and noted opportunities for the business community to improve efficiency and profitability by making those kinds of investments.<sup>xxix</sup> The Round Table concluded in its report that underlying all of their recommendations to the Minister was the need to shift *EGSPA*’s focus and objectives towards strengthening the “integration between the Environmental Goals and the economy”.<sup>xxx</sup>

The language and focus of the Round Table highlight a shift in focus of *EGSPA* from environmental protection to more integration of economics using an environmental lens. The shift away from environmental protection was also evident by the amendments made to *EGSPA* (Bill No. 136), which came into force on December 3, 2012. A brief overview of the changes highlights that certain objectives and goals that spoke specifically of the environment, for example by using phrases like “environmental goals”, were changed or replaced so that emphasis was shifted to “sustainable prosperity”.

The Round Table noted there was a need for new and enhanced targets in order to achieve the underlying vision of the legislation. They determined that the current *EGSPA* goals were not of themselves useful to achieve the vision underlying the Act and that, over time, new and enhanced targets and commitments would be “imperative”.<sup>xxx</sup> It noted that the successes of *EGSPA* were achieved in large part due to incorporation of specific goals to drive government accountability.<sup>xxxi</sup> However, it also highlighted that many submissions made by the public regarding *EGSPA*’s objectives and goals pointed to a perceived lack of clarity around the long-term objectives of the Act and how to measure progress towards them.<sup>xxxii</sup> It stated that:

In general, the Round Table wishes to stress that these Goals should not be viewed as static targets - once completed, then out of mind. Rather, they should generally be understood to be platforms upon which further progress can be built.

[...]

When a Goal refers to a level, percentage or rate (such as regarding emissions, electricity from renewable sources or waste), the Province should continue to meet the target and then, as an added consideration, assess going further where viable and practical.<sup>xxxiv</sup>

More specifically on the issue of GHG emission reductions, the Round Table noted that:

This Goal is on time and target to date. There were some submissions that this target is insufficient in light of current global climate change (IPCC) science predictions. It is recognized that Canada has been lagging with regard to climate change response in policy and action and that, even with this Goal, Nova Scotia is a relative leader. That said, we encourage Nova Scotia to look for every feasible opportunity to accelerate reduction of GHG emissions in consideration of the severity and dangerous implications of climate change.<sup>xxxv</sup>

As part of its recommendations, the Round Table stated that revising long-term objectives so that they are easier to understand and measure could help to facilitate the clear focus on an integrated environment and economy. Additionally, the Round Table noted that:

[...] the social component of sustainable prosperity (such as health care, education, rural and community vitality) needs to be integrated with environment and economy.

In the interim, it is recommended that opportunities be sought to extend *EGSPA*'s principles as a framework for solving complex problems related to sustainability.<sup>xxxvi</sup>

**Conclusion #8:** *A connection can and should be made to the role that long-term GHG emission reduction targets can have on providing economic stability in the form of market certainty and ease of long-term planning.*

The recommendations by the Round Table relate to the EAC's climate justice work, including its focus on setting new goals or re-framing existing goals to include aspects of green economy indicators, green job training and support mechanisms. For instance, the principles of equity or of common but differentiated responsibilities and respective capacities found in the *Paris Agreement* could be included in *EGSPA*'s guiding principles section. This would help to ensure that the burdens of meeting new GHG emission reduction targets are equitably distributed, and that specific support for low- and middle-income Nova Scotians, workers, Indigenous communities, African Nova-Scotian communities and more are all possible. In the spirit of a social component, *EGSPA* could also include specific references to elements of the **United Nations Declaration on the Rights of Indigenous Peoples**, such as the issue of Free, Prior and Informed Consent, the sacredness of the land to Indigenous peoples and the need to include Indigenous knowledge in decision-making.<sup>xxxvii</sup>

**Recommendation #7:** *EGSPA's guiding principles section should include the principles of equity and common but differentiated responsibilities and respective capacities.*

**Recommendation #8:** *In recognition of the need for reconciliation with Canada's Indigenous Peoples, including the findings of the Truth and Reconciliation Commission and the United Nations Declaration on the Rights of Indigenous Peoples, EGSPA's guiding principles section should also include principles related to Free, Prior and Informed Consent, the sacredness of the land to Indigenous peoples, and the need to include Indigenous knowledge, traditions and law into decision-making related to setting GHG emission reduction targets.*

Lastly, the Round Table recommended consideration be given to implementation of regulations under *EGSPA* to provide a means to construct, implement and enforce actions supporting *EGSPA* objectives and goals. However, as stated above, the current version of *EGSPA* has no enforcement mechanisms. Therefore, the only legal action that could be taken under the current *EGSPA* would be for the government failure to meet requirements of the Act.

#### 2.4 Nova Scotia Government Commitments in the Legislature

On October 24, 2017, during the third reading of Bill 15, Environment Minister Iain Rankin stated in the Nova Scotia Legislature that “[w]e are absolutely going to have declining caps, beyond business as usual”. The Minister also stated that a GHG emission reduction target for 2030 would be set as part of Nova Scotia's Cap and Trade Program.

The term “business-as-usual” was first used in 2009 in the Nova Scotia Climate Change Action Plan and referred to the state of GHG emissions if no steps were taken under *EGSPA*. The result of a business-as-usual course would have been 22.3Mt of CO<sub>2</sub>e in 2020, rather than the 17.1Mt projected for 2020.

The statements made by Minister Rankin are called “Hansard”, which is a record of the statements and debate made in the Nova Scotia House of Assembly (or its extra-provincial or federal equivalent). Hansard is not legally binding, so the Minister is not required by law to follow through on his promises. Hansard can, however, be used by a judge to aid in their interpretation of legislation. However, even in these situations, judges give limited weight and reliability to Hansard.<sup>xxxviii</sup>

***Conclusion #9: The Minister’s remarks about legislating declining caps and setting GHG emission reduction targets for 2030 are Hansard and not legally binding.***

### 3.0 New England Governors and Eastern Canadian Premiers' Conference

#### 3.1 The NEG/ECP Climate Change Action Plan (NEG/ECP CCAP)

One of the specific goals of *EGSPA* is the reduction of greenhouse gas ("GHG") emissions. This objective includes a reference to another, regional, climate action plan:

(f) greenhouse gas emissions are, by 2020, at least 10 per cent below the levels that were emitted in 1990, as outlined in the *New England Governors / Eastern Canadian Premiers' Climate Change Action Plan 2001*.

The **New England Governors and Eastern Canadian Premiers' Annual Conference** began in 1973 and exists to advance the interests of its members and encourage cooperation on developing networks and relationships, taking collective action on various issues, engaging in regional projects, undertaking research and increasing public awareness of shared interests.<sup>xxxix</sup> It exists as a forum for discussion of important issues common to its members and has resulted in action plans to reduce impacts of climate change and regional plans to reduce GHG emissions. Its 2001 **Climate Change Action Plan** ("CCAP") was an ambitious commitment by its members, including Nova Scotia's government, to "reach specified reduction targets for the region as a whole" and a commitment from each jurisdiction individually to plan for climate change reductions in a coordinated process that included disclosure of progress.

The language used within the CCAP includes words like "commitment" and "recommendation", which suggests that the agreement contained within the Plan is not legally binding on any of the NEG/ECP membership. This conclusion is supported by the fact so that the NEG/ECP CCAP is an agreement between international states. In its preamble, the CCAP states that the purpose of the Plan is to "recommend many actions to reduce regional greenhouse gas emissions in a manner that is cost effective and advances other important regional objectives".

The language of the CCAP is closely related to that found in *EGSPA*, and this is important because if the agreement is adopted or referenced within regulation (as noted above), it would only be applicable to the extent that it is not incompatible with the purposes of *EGSPA*. The CCAP's guiding principles are set out as follows:

3. The need to foster long-term environmental and economic sustainability, in order to favour economic growth while decreasing total emissions of carbon and other climate change gases, such that states and provinces may:

a) explore ways to adapt to the already changing climate, to take advantage of any benefits that might come from these changes, and to adapt our infrastructure and natural resource base accordingly; and

b) to explore ways to adapt to climate change in ways that do not increase the production of greenhouse gases in the process, and to be mindful of the health and safety of citizens.

The CCAP makes it clear in its preamble that the GHG emission reduction goals (and results) are an aggregate, rather than individual goals:

It is important to note that the goals and results outlined in this plan are for the New England and Eastern Canada region in aggregate and may not be achieved in equal measure by each jurisdiction. It is recognized that differences in emissions characteristics and inventories, social and political systems, economic profiles (including transportation/utility/industrial infrastructures), and resources will lead to varying approaches among the jurisdictions in contributing to the regional goals. However, each jurisdiction in the region commits to participate in the achievement of the regional goals and work with the other states and provinces in the region on this important effort.

It is clear that the CCAP is not binding. Each of the stated goals is followed by a list of recommendations, rather than a list of mandated actions. There is nothing to indicate that any of the goals are mandatory. Additionally, there is no mechanism under the CCAP, other than recommendations on possible courses of action to meet each individual goal, to compel or even guide the achievement of the GHG emission reduction goals. There are no other provisions, period.

***Conclusion #10:** The GHG emission reduction goals in the CCAP are not legally binding on Nova Scotia and would be difficult to directly integrate as worded because the CCAP refers to a “regional” goal. However, there is nothing preventing Nova Scotia from using the goals as the basis for the Province’s own legal targets.*

The goals under the CCAP are clear. The first goal of reaching 1990 GHG emission levels by 2010 and the mid-term goal to reduce GHG emissions to at least 10% below 1990 levels by 2020 have already been met in Nova Scotia.<sup>xi</sup> The long-term goal is to “reduce regional GHG emissions sufficiently to eliminate any dangerous threat to the climate”, which was identified as a required reduction of 75-85% below the current levels at that time (2001). In 2012, the conference supported the addition of an interim emission reduction target for 2030 to help orient mid-term climate change policy-making efforts with the goal of achieving the 2050 target.

### 3.2 Resolution 39-1

The emission reduction goals were supplanted with more specific reduction goals in 2015 with **Resolution 39-1 “Resolution Concerning Climate Change”**. The resolution was created at the 39<sup>th</sup> Annual Conference of New England Governors and Eastern Canadian Premiers, and it set out the following GHG reduction targets:

- a. Return to 1990 levels by 2010
- b. 10% below 1990 levels by 2020
- c. Range of 35-45% below 1990 levels by 2030 (this was called a “reduction marker”)
- d. Range of 75-85% below 2001 levels by 2050

In addition, the CCAP contemplates the creation of a regional emissions registry and trading mechanism, with a goal:

To create a uniform, coordinated basis for emissions banking and trading. The intent is to create a regional emissions registry and to gain experience in certifying credits and trading within the geographic region. In this way, states and provinces will offer industries, organizations and other entities an ability to disclose their current baseline in advance of actions, so as not to be penalized while making early reductions.

It should be noted that Newfoundland has also endorsed the NEG/ESP CCAP and adopted emission reduction targets of 75-85% below 2001 by 2050.<sup>xli</sup>

## 4.0 Conclusions

The focus of *EGSPA* from the time of its conception and creation in 2007 to its first five-year review saw a shift in thinking by both the government and the Round Table that conducted a review of *EGSPA*. Amendments were made to *EGSPA* in 2012 that subtly shifted the Act's focus to more integration between the environment and the economy. The key to this shift was a greater emphasis on long-term economic stability in the face of increased environmental efforts (such as GHG emission reductions). In its review of *EGSPA*, the Round Table referenced the need to ensure clarity and stability within this environmental-economic framework. It suggested that one way to create clarity and stability was to establish long-term goals to give businesses more certainty.

In our evaluation of the relationship between *EGSPA* and the Nova Scotia Cap and Trade Program, we have determined that *EGSPA* is a broad piece of legislation created to provide sweeping goals for general environmental and economic sustainability. The Cap and Trade Program is more narrowly focused and is only one of the mechanisms available to fulfill the government's GHG emission reduction obligations under *EGSPA*. As such, while the two are connected, neither is directly informed nor administered pursuant to the other.

We have determined that there are opportunities to set new and long-term GHG emission reduction targets in *EGSPA* by amending and updating the legislation itself. While the commitments made under the New England Governors and Eastern Canadian Premiers' Climate Change Action Plan are not legally binding, these GHG emission reduction targets can be made binding through incorporation by reference into *EGSPA* or the *Environment Act*, or their associated regulations. The CCAP or other, more ambitious, GHG emission reduction goals can also be directly incorporated into *EGSPA* through an amendment to the Act.

According to federal "stringency" requirements, Nova Scotia's Cap and Trade Program must include annual deductions in its total emissions cap. However, there is no federal requirement for the Cap and Trade Program to increase the ambition of Nova Scotia's long-term GHG emission reduction targets. Furthermore, there are no provincial requirements, either within *EGSPA* or under the 2017 *Environment Act* regulations that create the Cap and Trade Program, that mandate increases in ambition for GHG emission reduction targets.

Upcoming regulations for the Cap and Trade Program, to be released in the spring of 2018, will legally require a decrease in the total allowable GHG emissions each year. However, the annual decrease in GHG emissions required under the Cap and Trade Program do not need to achieve the GHG emission targets found in *EGSPA* because the program does not cover 100% of the province's emissions. Further, even if the *EGSPA* targets are reached, the federal stringency requirements do not require the Cap and Trade regulations to create new GHG reduction targets.

#### 4.1 Summary of Conclusions

**Conclusion #1:** Based on the history and objectives of the Cap and Trade system in Nova Scotia, and the broader federal climate change strategy, the Nova Scotia Cap and Trade system regulations are not the only mechanism through which the GHG emission reduction goals set by *EGSPA* can or will be achieved. For example, the Cap and Trade Program will only cover approximately 90% of the province's GHG emissions, so any remaining GHG emission reductions required to bring the province into compliance with *EGSPA* can be made through other means. This allows the total GHG emission reductions under Cap and Trade to fall below the GHG emission reductions required overall within the province.

**Conclusion #2:** There is recognition both within the Pan-Canadian Framework for Clean Growth and Climate Change and the *Paris Agreement* that there is a need for continuous improvement of reduction goals, regardless of the point at which the process began. The recognition of the importance of stringency measures should influence the Nova Scotia Government to establish more stringent GHG emission reduction targets.

**Conclusion #3:** Municipalities can play a role in helping to drive or facilitate greater GHG emission reduction goals, in spite of potential lax provincial standards or goals.

**Conclusion #4:** The Nova Scotia Cap and Trade Program has no binding GHG emission reduction targets other than those that will be set in regulations in the Spring of 2018 at the Minister's discretion.

**Conclusion #5:** The Cap and Trade Program will not cover all GHG emissions in the province, as opposed to *EGSPA*, which does cover the province's total GHG emissions.

**Conclusion #6:** The annual reporting structure in *EGSPA* that is used to determine progress made towards the Act's goals could be used as a triggering mechanism to require automatic review and implementation of new GHG emission reduction targets as previous targets are met.

**Conclusion #7:** If *EGSPA* was not directly amended to include additional GHG emission reduction targets, regulations could be made under *EGSPA* to set interim targets.

**Conclusion #8:** A connection can and should be made between the role that long-term GHG emission reduction targets can have on providing economic stability in the form of market certainty and ease of long-term planning.

**Conclusion #9:** The Minister's remarks about legislating declining caps and setting GHG emission reduction targets for 2030 are Hansard and not legally binding.

**Conclusion #10:** The GHG emission reduction goals in the CCAP are not legally binding on Nova Scotia and would be difficult to directly integrate as worded because the CCAP refers to a

“regional” goal. However, there is nothing preventing Nova Scotia from using the goals as the basis for the Province’s own legal targets.

## 5.0 Recommendations

**Recommendation #1:** The baseline for all GHG reduction targets should be 1990 and a direct reference to 1990 or to the baseline of 19.815Mt of CO<sub>2</sub>e should be made in any legislation that sets out GHG emission reduction targets.

**Recommendation #2:** Current stringency requirements will not necessarily facilitate increased GHG emission reduction goals. All declining GHG emission caps under the Cap and Trade Program should explicitly refer or be connected to specific GHG emission reduction targets in either *EGSPA* or the Cap and Trade regulations made under the *Environment Act*.

**Recommendation #3:** The Nova Scotia government should be politically pressured to consider including as many GHG emitting activities under the regulations as possible and to set targets based on the long-term goals under the Paris Agreement.

**Recommendation #4:** *EGSPA* should be amended to include incremental GHG emission reductions targets for 2030 and 2050 to better clarify its long-term emission reduction goals and provide greater certainty and planning opportunities for business. The details on how the targets should be met should be included in the *Environment Act* or its regulations.

**Recommendation #5:** *EGSPA* should be amended to include more principles related to long-term stability and increasing GHG emission reductions.

**Recommendation #6:** Regulations made under section 155 of the *Environment Act* are the appropriate place to implement the goals under *EGSPA* because, unlike *EGSPA*, the *Environment Act* has the necessary mechanisms to allow the Minister to enforce its provisions.

**Recommendation #7:** *EGSPA*'s guiding principles section should include the principles of equity and common but differentiated responsibilities and respective capacities.

**Recommendation #8:** In recognition of the need for reconciliation with Canada's Indigenous Peoples, including the findings of the Truth and Reconciliation Commission and the *United Nations Declaration on the Rights of Indigenous Peoples*, *EGSPA*'s guiding principles section should also include principles related to Free, Prior and Informed Consent, the sacredness of the land to Indigenous peoples and the need to include Indigenous knowledge, traditions and law into decision-making related to setting GHG emission reduction targets.

## 6.0 Endnotes

- <sup>i</sup> *Environmental Goals and Sustainable Prosperity Act* Progress Report 2014-15, found at: <https://www.novascotia.ca/nse/egspa/docs/EGSPA-2014-15-Progress-Report.pdf>.
- <sup>ii</sup> *Environmental Goals and Sustainable Prosperity Act* SNS 2007 c. 7, amended 2012 c. 42 at s. 4(1).
- <sup>iii</sup> *Paris Agreement under the United Nations Framework Convention on Climate Change*, 12 December 2015, FCCC/CP/2015.
- <sup>iv</sup> Figure is based on the unrounded GHG Emission Summary for Nova Scotia (Table A11-2), an annex to the “National Inventory Report 1990-2015: Greenhouse Gas Sources and Sinks in Canada” (NIR), found at: <http://donnees.ec.gc.ca/data/substances/monitor/national-and-provincial-territorial-greenhouse-gas-emission-tables/?lang=en>
- <sup>v</sup> See again: GHG Emission Summary for Nova Scotia (Table A11-2), an annex to the “National Inventory Report 1990-2015: Greenhouse Gas Sources and Sinks in Canada” (NIR), above; also see: Chronicle Herald: Ecology Action Centre: Nova Scotia doing well on greenhouse gas emissions, April 15, 2015, found at: <http://thechronicleherald.ca/novascotia/1280614-ecology-action-centre-nova-scotia-doing-well-on-greenhouse-gas-emissions>.
- <sup>vi</sup> Nova Scotia Environment, “Toward a Greener Future: Nova Scotia Climate Change Action Plan” (2009) at p. 7.
- <sup>vii</sup> *An Agreement on the Equivalency of Federal and Nova Scotia Regulations for the Control of Greenhouse Gas Emissions from Electricity Producers in Nova Scotia* (2014), found at: [https://www.canada.ca/content/dam/eccc/migration/main/lcpe-cepa/775586db-18b6-4366-9304-287eabc9e81f/accordfinal-ne\\_ns-finalagreement\\_eng.pdf](https://www.canada.ca/content/dam/eccc/migration/main/lcpe-cepa/775586db-18b6-4366-9304-287eabc9e81f/accordfinal-ne_ns-finalagreement_eng.pdf).
- <sup>viii</sup> *Paris Agreement under the United Nations Framework Convention on Climate Change*, 12 December 2015, FCCC/CP/2015 at Article 2.1(a).
- <sup>ix</sup> Vancouver Declaration on clean growth and climate change (March 03, 2016).
- <sup>x</sup> Vancouver Declaration on clean growth and climate change (March 03, 2016).
- <sup>xi</sup> Pan-Canadian Framework on Clean Growth and Climate Change (2016) at p. 8. Found at: <https://www.canada.ca/en/services/environment/weather/climatechange/pan-canadian-framework/climate-change-plan.html>.
- <sup>xii</sup> Pan-Canadian Framework on Clean Growth and Climate Change (PCF) at p. 7.
- <sup>xiii</sup> See: <https://www.canada.ca/en/services/environment/weather/climatechange/pan-canadian-framework/guidance-carbon-pollution-pricing-benchmark.html>.
- <sup>xiv</sup> PCF backgrounder found at: <https://www.canada.ca/en/environment-climate-change/news/2016/10/canadian-approach-pricing-carbon-pollution.html>.
- <sup>xv</sup> PCF Backgrounder.
- <sup>xvi</sup> PCF Pricing Benchmark Guidance found at: <https://www.canada.ca/en/services/environment/weather/climatechange/pan-canadian-framework/guidance-carbon-pollution-pricing-benchmark.html>.
- <sup>xvii</sup> See the Supplemental Benchmark Guidance at: <https://www.canada.ca/en/services/environment/weather/climatechange/pan-canadian-framework/guidance-carbon-pollution-pricing-benchmark/supplemental-benchmark-guidance.html>
- <sup>xviii</sup> PCF at p. 46.
- <sup>xix</sup> *Paris Agreement*, Article 4.3.
- <sup>xx</sup> EGSPA Progress Report (2014-15) at p. 46.
- <sup>xxi</sup> Nova Scotia Cap and Trade Program Design Options at pp. 1, 5, found at: <https://climatechange.novascotia.ca/proposed-cap-and-trade-program>.
- <sup>xxii</sup> Greenhouse Gas Emissions Regulations (NS Reg 260/2009 as amended Sep 10, 2013 to NS Reg 305/2013).
- <sup>xxiii</sup> The “Governor in Council” can refer to either a provincial or federal appointment. Provincially, the Governor in Council (GIC) is the Lieutenant Governor acting on the advice of the Executive Council (also known as the Cabinet), which is made up of Ministers. Federally, the GIC is the Governor General, acting on the advice of the federal Cabinet, also made up of Ministers.
- <sup>xxiv</sup> *Environment Act*, RSNS 1994-95 c.1 at section 112B(2).

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<sup>xxv</sup> *Ibid* at section 112B(3).

<sup>xxvi</sup> EGSPA Progress Report (2015-17) at p. 2.

<sup>xxvii</sup> EGSPA, at section (3)(a), (c).

<sup>xxviii</sup> *Ibid* at section 10(1).

<sup>xxix</sup> Letter to Minister of Environment, April 1, 2008 by the Round Table on the Environment and Sustainable Prosperity, found at: Letter to Minister of Environment, April 1, 2008 by the Round Table on the Environment and Sustainable Prosperity.

<sup>xxx</sup> The Minister's Round Table on Environment and Sustainable Prosperity's Report to the Minister of Environment regarding the Environmental Goals and Sustainable Prosperity Act (EGSPA) – Executive Summary.

<sup>xxxi</sup> EGSPA Review Report (2012) at p. 5. Found at: <https://novascotia.ca/nse/dept/docs/EGSPA.Report.2012.pdf>.

<sup>xxxii</sup> *Ibid*.

<sup>xxxiii</sup> *Ibid* at p. 13.

<sup>xxxiv</sup> *Ibid* at p. 14.

<sup>xxxv</sup> *Ibid* at p. 24.

<sup>xxxvi</sup> Executive summary for EGSPA Review Report (2012) at p. 4.

<sup>xxxvii</sup> United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295, UNGAOR, 61st Sess, supp No 49, UN Doc A/RES/61/295 (13 September 2007).

<sup>xxxviii</sup> *R v Morgentaler* (1993) 1 SCR 462.

<sup>xxxix</sup> Its members include Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island and Quebec.

<sup>xl</sup> Resolution 39-1.

<sup>xli</sup> PCF at p. 50.