

Five-year limits are crucial to the efficacy of equivalency agreements

Pembina Institute comments and recommendations

Submitted to the Standing Senate Committee on Energy, the Environment and Natural Resources

Regarding: Division 42 of Bill C-15

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Summary

- The five-year time limit on equivalency agreements made under the *Canadian Environmental Protection Act* is crucial to ensuring provincial accountability to emissions reduction targets.
- Recurring five-year negotiations ensure equivalency determinations can be based on up-to-date and accurate information.
- Eliminating the five-year time limits would dramatically undermine the value of equivalency agreements.

Context

The Pembina Institute welcomes the opportunity to provide input to the Standing Senate Committee on Energy, the Environment and Natural Resources (ENEV) as part of its study of the subject matter of Division 42 of *Bill C-15, An Act to implement certain provisions of the budget*.

The Pembina Institute is a national not-for-profit clean energy think tank. Our mission is to advance a prosperous clean energy future for Canada through credible policy solutions that support communities, the economy, and a safe climate.

Division 42 of Part 5 amends the *Canadian Environmental Protection Act, 1999* (CEPA) to remove the mandatory five-year limit for agreements made under subsection 9(5) or 10(3). Our comments will pertain specifically to subsection 10(3), which allows the Governor in Council to make an order declaring that a regulation does not apply in a jurisdiction when the jurisdiction has laws in place that are deemed to be equivalent to a federal regulation under CEPA. We will refer to this as “the five-year limit on equivalency agreements”.

Discussion and recommendations

With respect to certain areas of federal jurisdiction under CEPA, including methane emissions and industrial carbon pricing, five-year limits on equivalency agreements are essential to ensure provincial regulations achieve equivalent outcomes to their federal counterparts.

Methane emissions

The federal government has jurisdiction over methane emissions under CEPA. Federal regulations are now in place to achieve a 40-45% reduction from 2012 levels by 2025, and Environment and Climate Change Canada has just announced regulatory amendments to

achieve a 75% reduction from 2012 levels by 2030. B.C., Alberta, and Saskatchewan had equivalency granted in 2020¹ and again in 2025² for provincial regulations to achieve targets equivalent to the federal 40-45% target. Once the federal amendments are published on December 31, 2025, new equivalency agreements will need to be negotiated.

The equivalency process has significant shortcomings. Closed-door negotiations make it impossible to independently scrutinize the models and assumptions used to make equivalency determinations.³ It is sometimes evident that certain provincial regulations are not truly equivalent with federal regulations, despite being recognized as such. For instance, a peer-reviewed scientific article showed that Alberta's oil and gas methane regulations would result in

¹ Government of Canada, Agreement on the Equivalency of Federal and Alberta Regulations Respecting the Release of Methane from The Oil And Gas Sector in Alberta, 2020 (2020). <https://www.canada.ca/en/environment-climatechange/services/canadian-environmental-protection-act-registry/agreements/equivalency/canada-alberta-methaneoil-gas.html>

Government of Canada, Agreement on the Equivalency of Federal and British Columbia Regulations Respecting the Release of Methane from the Oil and Gas Sector in British Columbia, 2020 (2020). <https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/agreements/equivalency/canada-british-columbia-methane-oil-gas.html>

Government of Canada, Agreement on the Equivalency of Federal and Saskatchewan Regulations Respecting the Release of Methane from the Oil and Gas Sector in Saskatchewan, 2020 (2020). <https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/agreements/equivalency/consultation-canada-saskatchewan-methane-oil-gas.html>

² Government of Canada, Agreement on the Equivalency of Federal and Alberta Regulations Respecting the Release of Methane from the Oil and Gas Sector in Alberta, 2025 (2025). <https://www.canada.ca/en/environment-climatechange/services/canadian-environmental-protection-act-registry/agreements/equivalency/canada-alberta-methaneoil-gas-2025.html>

Government of Canada, Agreement on the Equivalency of Federal and British Columbia Regulations Respecting the Release of Methane from the Oil and Gas Sector in British Columbia, 2025 (2025). <https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/canada-british-columbia-methane-oil-gas.html>

Government of Canada, Agreement on the Equivalency of Federal and Saskatchewan Regulations Respecting the Release of Methane from the Oil and Gas Sector in Saskatchewan, 2025 (2025). <https://www.canada.ca/en/environment-climate-change/services/canadian-environmental-protection-act-registry/agreements/equivalency/canada-saskatchewan-methane-oil-gas.html>

³ Canadian Lung Association, David Suzuki Foundation, Environmental Defense Fund, Pembina Institute, *Order Declaring that the Provisions of the Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds (Upstream Oil and Gas Sector) Do Not Apply in British Columbia, 2025 (2024)*. <https://www.pembina.org/pub/renewing-british-columbias-methane-equivalency-agreement>

David Suzuki Foundation, Environmental Defense Fund, Pembina Institute, *Comments on Order Declaring that the Provisions of the Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds (Upstream Oil and Gas Sector) Do Not Apply in Alberta, 2025 (2025)*. <https://www.pembina.org/pub/methane-releases-alberta>

David Suzuki Foundation, Environmental Defense Fund, Pembina Institute, *Comments on Order Declaring that the Provisions of the Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds (Upstream Oil and Gas Sector) Do Not Apply in Saskatchewan, 2025 (2024)*. <https://www.pembina.org/pub/renewing-saskatchewans-methane-equivalency-agreement>

25-27% fewer reductions than the federal regulations in 2018.⁴ The recent Memorandum of Understanding between the federal government and Alberta allows the province five additional years to achieve a 75% reduction from its baseline year of 2014.⁵ Our analysis has shown that this delay would cumulatively result in at least 1.9 MT of additional methane emissions,⁶ and we therefore believe that the delay is incompatible with true equivalency in emissions reductions outcomes.

Despite its limitations, the equivalency process is a way to garner provincial cooperation toward emissions reductions targets – and has likely resulted in a greater level of provincial action than would otherwise be forthcoming. It is therefore a process that should be improved and strengthened, rather than made weaker and more permissive.

The integrity of the equivalency process requires that it be based on evidence. Evidence regarding the magnitude of oil and gas methane emissions (and, by extension, the efficacy of the relevant regulations) changes extremely quickly. Methane emissions from oil and gas production have been proven to be significantly underestimated and underreported in Canada.⁷ Measurement data is therefore essential to assessing progress. The science of measurement – including the technical capabilities of measurement devices and the statistical methods used to estimate emissions based on measurement data – is rapidly advancing. Measurement data is continually being gathered and analysed. As a result, our understanding of oil and gas methane emissions is significantly better than it was five years ago. It follows that our current understanding is likely to be well outdated five years from now.

This means that an accurate and honest assessment of progress in reducing oil and gas methane emissions must incorporate the most up-to-date measurement data. Five-year limits are critical to ensuring that the process is adequately responsive to evidence and that the equivalency

⁴ Matthew Johnson and David Tyner, “A Case Study in Competing Methane Regulations: Will Canada’s and Alberta’s Contrasting Regulations Achieve Equivalent Reductions?” *Elementa: Science of the Anthropocene* 8, no. 7 (2020). <https://doi.org/10.1525/elementa.403>

⁵ Canada-Alberta Memorandum of Understanding (2025). <https://www.pm.gc.ca/en/news/backgrounders/2025/11/27/canada-alberta-memorandum-understanding>

⁶ Amanda Bryant, “No, the Ottawa-Alberta MoU is not a win on methane” (Pembina Institute, 2025). <https://www.pembina.org/blog/no-ottawa-alberta-mou-not-win-methane>

⁷ Katlyn MacKay et al., “Methane emissions from upstream oil and gas production in Canada are underestimated,” *Scientific Reports* 11, no. 1 (2021), 8041. <https://doi.org/10.1038/s41598-021-87610-3>

Bradley Conrad et al., “A measurement-based upstream oil and gas methane inventory for Alberta, Canada reveals higher emissions and different sources than official estimates,” *Communications Earth & Environment* 4, no. 1 (2023). <https://doi.org/10.1038/s43247-023-01081-0>

Scott Seymour et al., “Saskatchewan’s Oil and Gas Methane: How have underestimated emissions in Canada impacted progress toward 2025 climate goals?,” *Environmental Research Letters* 18, no. 8 (2023), 084004. <https://doi.org/10.1088/1748-9326/ace271>

determination does not rest on outdated information. The efficacy of equivalency agreements and the accountability of the provinces to reduction targets depends on it.

Industrial carbon pricing

Similarly, having a time limit on equivalency agreements for industrial carbon pricing has value. Managing industrial carbon pricing in Canada has become increasingly complex, as most provinces and territories — including Alberta, the country's highest emitter and largest carbon market — have equivalency agreements with the federal government.

Temporal constraints on those equivalency agreements are important. They ensure that provinces and territories are required, at regular and frequent intervals, to ensure that their system is achieving equivalent outcomes as the federal backstop. They obligate all governments to review their systems for stringency and to align with the stated objectives of the Greenhouse Gas Pollution Pricing Act (GGPPA). They also allow the federal government to maintain a coherent national industrial carbon pricing strategy, while allowing provinces and territories the flexibility to create and manage systems that are attuned to the particular industrial makeup of their economies.

It is important that industrial pricing systems across provinces and territories are relatively similar, in terms of scope, coverage, and marginal price on carbon; if one province has a much stricter carbon price or compliance cost than another, industries in that province could face higher costs. This could lead to carbon leakage within Canada, where businesses relocate within Canada to reduce compliance costs, rather than actually decarbonizing their operations — and reducing emissions is the primary purpose of industrial carbon pricing. Robust and regularly reviewed equivalency agreements are important to mitigate these competitiveness concerns.

Despite the current five-year interval for reviews, several provincial systems are out of compliance with the federal benchmark, such as Alberta and Saskatchewan. There is a need for stricter guidelines for equivalency negotiations, as well as frequent interim reviews of provincial carbon pricing systems. Interim reviews should occur every two to three years, with pre-set criteria that will be assessed at each to decide if the equivalency agreement has been invalidated by provincial action or inaction, or if the spirit of the agreement has been contravened in any way, so the federal backstop will be promptly enforced.

In light of the considerations contained in this brief regarding methane emissions and industrial carbon pricing, **we strongly recommend against eliminating the five-year time limit on equivalency agreements.**

Conclusion

Thank you for the opportunity to provide written comments on Division 42 of Bill C-15. We would be pleased to provide further information or respond to follow-up questions at your request.