Canada Issues Finalized Clean Electricity Regulations

On December 17, 2024, the Government of Canada released the finalized *Clean Electricity Regulations* (CER or Regulations). The Regulations are a key component of Canada's climate strategy, designed to achieve a net-zero electricity grid by 2035 and contribute to economy-wide net-zero emissions by 2050. The finalized CER replaces the draft regulations released in 2023 and incorporates much of the stakeholder feedback received during the initial comment period.

This bulletin outlines the key updates in the finalized CER, including revised emissions limits, compliance credit systems, and new opportunities for credit trading and pooling within federal and provincial frameworks.

Background

The CER was developed as part of Canada's broader Emissions Reduction Plan and is one of several emissions-reduction policies intended to achieve economy-wide net-zero greenhouse gas (GHG) emissions by 2050. The initial draft regulations were issued on August 10, 2023. As described in our *Blakes Bulletin: Canada Seeks Input on Draft Clean Electricity Regulations*, the draft CER proposed unit-specific emissions limits of 30 tonnes of CO_2e per gigawatt-hour (GWh) of electricity production, which was broadly criticized as being overly stringent and not technically achievable for most fossil fuel generating units. Concerns were raised regarding

cost implications, operational feasibility and the lack of alignment with existing provincial emissions frameworks.

Among other things, the finalized version of the CER introduces alternative mechanisms for achieving compliance, such as compliance credit systems, emissions trading, and revised emissions thresholds. While these changes address many stakeholder concerns, some issues may remain unresolved.

Key Takeaways

1. Revised Emissions Limits

To address stakeholder concerns about the stringency of emissions intensity limits, the final Regulations now adopt an absolute emissions approach expressed as an annual emissions limit (i.e., tonnes of CO_2e (t) per year). Before 2050, generating units must adhere to an annual emissions limit of 65 t/GWh. A unit may emit up to 35 t/GWh above the 65 t/GWh limit by remitting an equivalent amount of eligible offset credits. This adjustment from the 30 t/GWh limit prescribed by the draft CER provides operators with enhanced flexibility as they adopt cleaner technologies. After 2050, the annual emissions limit reduces to zero, though facilities may utilize up to 42 t/GWh in offset credits. This shift in regulatory design is intended to assist operators in achieving complete decarbonization while managing operational realities.

2. Introduction of Compliance Credits

The CER introduces a compliance credit system, rewarding generating units that operate below their emissions intensity limits. These credits can be banked for future use, helping operators develop long-term compliance strategies. Additionally, these credits can be traded among generating units, subject to federal and provincial restrictions. However, no compliance credits will be issued after the 2049 compliance year, underscoring the emphasis on achieving a net-

zero grid by 2050. This mechanism aligns with the federal *Output-Based Pricing System Regulations*, promoting a consistent approach to emissions reductions across jurisdictions.

3. Flexibility Through Credit Trading and Pooling

The CER offers operators flexibility through emissions trading and credit pooling mechanisms. Generating units may trade compliance and offset credits to meet emissions intensity limits, incentivizing investments in renewable energy, carbon capture and other emissions-reduction technologies.

Transferable compliance credits allow units to bank credits for their own use or transfer them to other eligible units reporting to the same electricity system operator, generally within the same province. These credits are available to units subject to an Annual Emissions Limit, provided they meet eligibility criteria such as commissioning before January 1, 2030, not combusting coal and not producing useful thermal energy. Transferable credits can only be remitted by units eligible for issuance during the same compliance year, and remittance ends with the 2049 compliance year.

Swapping transferable credits permits existing units or planned units commissioned before January 1, 2030, to designate substitute units to issue and remit transferable credits. This process requires compliance with conditions, including a generating capacity equal to or less than that of the substitute unit and the need for both units to report to the same electricity system operator. Swapping applies for complete compliance years, and the federal Minister of the Environment must be informed before the start of the relevant year. These features align with established provincial frameworks and the federal *Greenhouse Gas Pollution Pricing Act* jurisdictions.

4. Staggered Implementation Timelines

The CER sets staggered timelines for compliance to accommodate the varied operational contexts of generating units. For most units, the Regulations apply as of January 1, 2035. For certain planned or "in flight" units, the Regulations will apply as of January 1, 2050. Units converted from coal to gas boilers have a later applicability date (referred to as an "end of prescribed life date"), which depends on commissioning dates and compliance with provisions under the *Regulations Limiting Carbon Dioxide Emissions from Natural Gas-fired Generation of Electricity*. This phased approach ensures that operators have adequate time to implement necessary changes while maintaining grid reliability.

5. Alignment With Federal and Provincial Frameworks

The finalized CER is designed to complement existing federal and provincial regulatory frameworks for GHG emissions reduction. By incorporating mechanisms such as credit trading, pooling, and emissions thresholds, the CER aligns with the federal *Output-Based Pricing System Regulations*. It appears that this alignment is intended to reduce compliance complexities for operators and facilitate the integration of CER requirements with existing practices. These provisions ensure that the CER supports emissions reductions while maintaining consistency across Canada's regulatory landscape.

6. Streamlined Emergency Operations Protocols

The final CER simplifies previously proposed procedures for operating high-emissions units during emergencies. Under the finalized Regulations, electricity system operators may independently authorize the operation of such units for up to 30 days during emergencies to address grid reliability risks, such as those caused by natural disasters or fuel shortages. This replaces the draft CER's requirement to obtain approval from the Minister of Environment and Climate Change Canada, reducing administrative delays and ensuring swift responses to maintain system reliability. However, the Minister retains the

discretion to authorize the extension of emergency operations beyond the initial 30 days.

7. Incorporating Stakeholder Feedback

The federal government has incorporated significant stakeholder feedback into the final Regulations, though some stakeholder issues may remain outstanding. In addition to the items noted above, the operational limit of 450 hours per year for peaker units has been removed. Furthermore, the 25 MW net generation criterion, on which the application of the Regulations is partially based, has been updated to apply at the facility level rather than to individual generating units. As a result, the CER will apply to all new units at the same facility whose capacities collectively amount to 25 MW or greater, as well as single units with a capacity of 25 MW or greater. This closes a possible loophole whereby numerous units under 25 MW would be commissioned to avoid being subject to the CER. Planned units with commissioning dates after January 1, 2025, but before December 31, 2034, may be exempted from the calculation of electricity generation capacity toward the 25 MW threshold, so long as construction has begun before December 31, 2027. This protects "in flight" projects with investments already underway.

As noted above, there are staggered implementation timelines for planned or "in flight" generating units. In response to stakeholder feedback, the end of prescribed life date (i.e., the date by which a unit must comply with specific provisions under the CER, accounting for commissioning timelines and phased requirements) for planned units has been extended from December 31, 2035, to December 31, 2049. The end of prescribed life date for units commissioned by December 31, 2024, has been extended to 25 years after the commissioning date from the originally proposed 20 years. Similarly, the threshold for units becoming subject to the Regulations due to an increase in generation capacity is now increased to 15% from the

originally proposed 10%.

Looking Ahead

The finalized CER establishes a framework aimed at transitioning Canada's electricity sector toward net-zero emissions. However, certain aspects of the Regulations may continue to raise questions or concerns among stakeholders. Alberta has announced its intent to challenge the constitutionality of the CER, a development to monitor closely. Similarly, Saskatchewan has rejected the CER, describing the regulations as unconstitutional, though no formal legal challenge has been announced at this time.

The federal government appears to have adjusted the Regulations to balance emissions-reduction goals with economic and operational realities by adjusting the emissions intensity limit and incorporating flexibility mechanisms to facilitate compliance.

Stakeholders should familiarize themselves with the finalized Regulations and assess the implications for compliance strategies, capital investments and operational planning, including opportunities to maximize the benefits of credit trading and pooling systems.

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