

# CLIMATE CHANGE LEGISLATION IN CANADA

*AN EXCERPT FROM*

## **The 2015 Global Climate Legislation Study** **A Review of Climate Change Legislation in 99 Countries**



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# Canada

## Legislative Process

The Parliament is the federal legislative branch and legislative assemblies are based on the British model. It consists of the Senate (105 members appointed by the governor general on the advice of the prime minister) and the House of Commons (308 members elected for a maximum of five years). Representation in both chambers is according to population in the provinces. General elections are held on the third Monday of October of the fourth calendar year after the previous poll. They can also be called by the prime minister if the government loses the confidence of the legislature. The last federal election was held in May 2011 and the next is expected to be held on 19 October 2015, unless the Governor General dissolves Parliament earlier.

The law-making process starts with a bill, which can be introduced in the House of Commons (C-bills) or the Senate (S-bills). Public bills may be initiated by a minister (government bills) or private members. Private bills are founded on a petition signed by those interested in promoting it and introduced in either chamber. Bills that seem to be both public and private in nature are called hybrid bills. Bills to appropriate any part of the public revenue, such as tax or impost, shall originate in the House of commons (“money votes”). A bill goes through certain formal stages in each House. The stages include a series of three readings during which parliamentarians debate the bill. Prior to the third and final reading, each House also sends the bill to a committee where members examine the finer points of the legislation. Committee members hear witness testimony on the bill, and then subject it to a clause-by-clause study based on the testimony. Canada retains the Sovereign of the United Kingdom as its head of state. All laws are formally enacted by the Sovereign “by and with the advice and consent” of the Senate and House of Commons. Once both Houses have approved a bill, it is presented for Royal Assent and becomes law (named Act or Regulation).

The Constitution divides the legislative abilities between the federal and provincial governments. Provincial legislatures may pass laws relating to topics explicitly reserved for them by the Constitution.

## Approach to Climate Change

Canada has no comprehensive federal climate change legislation. An act to implement Canada’s targets under the Kyoto Protocol during the first commitment period of 2008–2012 was passed in 2007. However, in 2011, Canada announced that it would withdraw from the Kyoto Protocol and officially repealed the Act in 2012, within the framework of the budget implementation Act.

There have been attempts to pass more comprehensive and longer-term climate change legislation, the most significant being the Climate Change Accountability Act. This Bill was originally introduced in 2006 and again in 2010, when it was passed by the House of Commons but did not pass in the Senate. In 2011 the bill was reintroduced by the largest opposition party, the New Democratic Party, but no progress has been made. This bill would have required the federal government to set regulations to attain a medium-term target to bring GHG emissions 25% below 1990 levels by 2020, and a long-term target to bring emissions 80% below 1990 levels by 2050. The bill would also have allowed the government to establish executive measures to meet these targets and set penalties for those that violate the regulations (for example, the Passenger Automobile and Light Truck Greenhouse Gas Emission Regulations published in October 2010).

The reduction targets in the bill were proposed by “Turning the Corner: Action Plan to Reduce Greenhouse Gases and Air Pollution”, the Conservative Party’s climate change plan announced in 2007. Indeed, “Turning the Corner” provided the groundwork for Canada’s approach to tackling climate change. According to the document, the priority is to realign policies and regulations in

order to maintain economic prosperity while protecting the environment and harmonising the regulatory framework with the United States, its largest trading partner. Regulations in the Action Plan require intensity-based targets for a variety of industrial sectors of 6% each year between 2007 and 2010, with a further 2% intensity reduction each year to 2015.

### **Sub-national level**

Despite the lack of comprehensive federal legislation, provinces have been active in passing their own climate legislation. At Lima COP20 in 2014, the provinces of Ontario, Quebec and British Columbia issued a joint statement with California to lead international actions to fight climate change and collaborate for an international agreement at the Paris COP21 in 2015. British Columbia and Quebec have introduced economic incentives to reduce emissions, such as a carbon tax (up to CAD30 [USD26.44] in 2012 in British Columbia). Vehicle fuel efficiency in British Columbia and Quebec were aligned with the stringent standards in California. Ontario passed a comprehensive Green Energy and Green Economy Act in 2009, created to expand renewable energy generation, encourage energy conservation and promote the creation of clean energy jobs. The targets of the Act are to reduce emissions by 6% below 1990 levels by 2014, 15% by 2020 and 80% by 2050. It includes a feed-in tariff, energy conservation measures on all levels and a plan to shut down all coal-fired power plants by 2014. Cap-and-trade schemes have been introduced by three provinces, representing 75% of the population – Ontario, Quebec and British Columbia. Alberta's climate change plan relies upon intensity-based targets, with a commitment to reduce GHG emissions intensity by 50% by 2050. It relies on energy efficiency, carbon capture and storage and renewable energy production.

### **Energy supply**

According to the International Energy Agency, Canada's primary energy is supplied by crude oil (35.4%), natural gas (21.2%), hydropower (12.2%), nuclear power (9.3%), coal (6.9%), biofuel and waste (4.6%) and other renewables such as solar and geothermal (0.4%) as of 2012. Electricity is produced largely from hydropower (60% in 2012). There is a regional variation in energy mix.

Canada has energy sources large enough to meet its needs for many generations. The energy policy published in 2013, *Energy Future 2013 (EF 2013)*, projects energy supply and demand for 2035, and estimates that oil production would increase by 75% and natural gas production by 25% from 2012 levels. Total electricity generation is expected to increase by 27% over the period. Hydropower remains the dominant source of electricity supply to 2035. Annual hydroelectricity production and capacity is expected to expand from 376 TWh and 77GW in 2012 to 442 TWh and 65GW in 2035 respectively.

### **Energy demand**

Canada has implemented minimum energy performance standards for a number of products since the approval of the Energy Efficiency Act in 1992. The most recent amendments increase the Act's scope and effectiveness. The amendments also require the Minister of Natural Resources to submit an energy efficiency progress report to Parliament every three years. The Renewable Fuels Regulations that came into effect in 2010 require an average renewable fuel content of 5% in gasoline.

In 2012, regulations were announced by the federal environment minister to reduce emissions from coal-fired electricity facilities by phasing out high-emitting coal-fired generation and promoting lower or non-emitting types of generation. The regulations will set performance standards for new coal-fired units (producing electricity from 1 July 2015) and for units at the end of their "useful life" – i.e. which have been producing electricity for 50 years. Transitional regulations apply to units built before 1986. Regulated entities will be required to begin reporting emission levels two years in advance of the performance standards coming into force. The level of the performance standard will be fixed at 420 tonnes of CO<sub>2</sub>/GWh. The regulations effectively require installation of carbon capture and storage (CCS) equipment to coal-fired power stations, as emissions captured by CCS

equipment are exempt from being counted towards the performance standard. Additionally, units that have CCS installed can apply for a complete exemption from the performance standard until 2025. The government estimates that 75% of coal plants will reach the end of their useful life by 2025 and 80% by 2030, and therefore will have to retrofit CCS equipment if they want to continue operating.

Energy Future 2013 projects that energy efficiency will improve by 20% per unit of economic output by 2035 compared to 2012 as a result of measures such as new passenger vehicle emission standards to improve vehicle fuel efficiency.

### Transportation

In 2012 the government announced proposed regulations to reduce GHG emissions from new on-road heavy-duty vehicles, from model year 2014. The emission standards and test procedures are designed to be aligned with those of the US. The regulation was passed in 2013 and aims to reduce emissions from heavy-duty vehicles such as semi-trucks, full-size pick-ups, buses and garbage trucks by up to 23% by 2018. It sets more stringent standards for 2014-2020 model-year heavy-duty vehicles. Plans to continue the regulation beyond 2017 with more stringent standards are under consultation. A regulation for light-duty vehicles has also been proposed, which is expected to set more stringent GHG emission standards between 2017 and 2025 (3.5% reduction between 2017 and 2021, 5% reduction between 2022 and 2025). This proposed regulation is expected to save up to 50% of fuel consumption by 2025 compared to 2008 vehicles.

### Adaptation

In 2008, Canada released a national science assessment of climate change impacts and adaptations. From Impacts to Adaptation: Canada in a Changing Climate used a regional approach to discuss current and future climate change impacts, vulnerabilities and adaptation options. An update on this report was made in 2014, Canada in a Changing Climate: Sector Perspectives in Impacts and Adaptation, which assessed advances made in different sectors. It identified the exacerbating impacts of climate changes in the natural environment, economic sectors and health of citizens. Extreme weather events are key concerns and adaptation is a necessity, by means of enhanced social and economic resilience to climate change impacts. Adaptation activities include provincial guidelines for reforestation, development of community-based heat alert and response systems, provincial coastal risk assessment and revision of taxation schemes to help producers manage weather-related risk.

## Canada: Legislative Portfolio

<b>Name of law</b>	<b>Canada Foundation for Sustainable Development Technology Act (S.C. 2001, c. 23)</b>
<b>Date</b>	14 June 2001
<b>Summary</b>	<p>This Act establishes a not-for-profit foundation that finances and supports the development and demonstration of clean technologies which provide solutions to issues of climate change, clean air, water and soil quality, and which deliver economic, environmental and health benefits to Canadians.</p> <p>The foundation shall, within 5 months of the end of each fiscal year, prepare an annual report of its activities during the preceding fiscal year. The report is to include the foundation's financial statements for the year as approved by the board and the report of the auditor respecting those statements, a detailed statement of its investment activities during the year, its investment portfolio as at the end of the year and its investment policies, standards and procedures, a detailed statement of its funding activities, a statement of its plans for fulfilling its objectives and purposes for the next year and an evaluation of the overall results achieved by the funding of eligible projects by the foundation during the year in review, and since the inception of the foundation.</p>

<b>Name of law</b>	<b>The Canadian Environmental Protection Act 1999 (CEPA 1999) (S.C. 1999, c. 33)</b>
<b>Date</b>	31 March 2000
<b>Summary</b>	The CEPA 1999, or the Canadian Environmental Protection Act 1999, modifies the former Canadian Environmental Protection Act of 1988. It sets out a framework to manage and control toxic substances released from all stages of economic activities: from development, manufacturing, transportation, distribution, storage, use up to disposal.

This law is administered by the Environment Canada and to assess toxicity of substances or to develop associated regulations, objectives, guidelines and codes of practice the Ministry collaborates with the Health Canada. Among the list of toxic substances, the following GHGs are subject for regulation under this act: chlorofluorocarbon, methane, nitrous oxide, hydrofluorocarbons and sulphur hexafluoride.

Key changes made under the CEPA 1999 are as follows:

- Implementation of pollution prevention
- Introduction of new procedures to investigate and assess toxicity of substances
- Introduction of new procedures to set new requirements and controls for substances that the Minister of the Environment and the Minister of Health have determined to be toxic or capable of becoming toxic
- New provisions on animate products of biotechnology
- New provisions on fuels, international air and water pollution, motor emissions, release of nutrients into water that may cause excessive growth of aquatic vegetation and environmental emergencies
- New provisions to regulate the environmental impacts on government operations and to protect the environment on and in relation to federal land and aboriginal land
- New provisions on disposal of wastes
- New provisions on export and import of wastes
- Provision of new powers for enforcement officers and analysts appointed by the Minister of the Environment
- Specify criteria for courts to impose a sentence on an offender
- Encourage participation of citizens in making decisions on environmental matters: new rights to send written comments or notices of objection to the Minister of the Environment

This was later amended by the Bill C-33 (26 June 2008) to include period and comprehensive reviews of the environmental and economic impacts of biofuel production in Canada. This amendment bill is also known as Biofuel Bill, as it established a framework within which the government can regulate biofuels content. This includes the tracking of exports to make accurate calculations of the volume of renewable fuels as a percentage of the total fuel used in Canada, and the lifting of administrative burdens that would be placed on small producers and importers. The Biofuel Bill allows the federal government to implement regulations requiring 5% average renewable content in gasoline by 2010. Subsequent regulations will also require 2% average renewable content in diesel and heating oil by 2012 on successful demonstration of renewable diesel fuel use under the range of Canadian environmental conditions.

In addition, the Governor General in Council, on the recommendation of the Minister of the Environment, has been regulating sections of the Environmental Protection Act which directly address climate change and the emission of GHG, including:

- Passenger Automobile and Light Truck GHG Emissions Regulations (2010), which establishes GHG emission standards for cars and light trucks for model years 2011-2016, and the new Regulations for Passenger Automobile and Light Truck GHG Emissions (2012), which establishes GHG emission standards for cars and light trucks of model years 2017 and beyond.
- Reduction of Carbon Dioxide Emissions from Coal-Fired Generation of Electricity Regulations (2012), which sets performance standards for carbon dioxide emissions from coal-fired electricity generation units.
- Heavy-Duty Vehicle and Engine GHG Emissions Regulations (2013), which establishes GHG emission standards for on-road heavy-duty vehicles and engines (e.g. buses, tractors and refuse trucks).
- Renewable Fuels Regulations (2013), which aims to reduce GHG emissions by requiring an average 5% renewable fuel content in gasoline and 2% renewable content in diesel fuel.

<b>Name of law</b>	<b>Energy Efficiency Act (S.C. 1992, c. 36)</b>
<b>Date</b>	1992, last amended in 2008
<b>Summary</b>	<p>The Act aims to establish minimum energy efficiency standards for a broad range of products and equipment in order to decrease overall Canadian energy consumption. It gives the government of Canada the authority to make and enforce standards for the performance of energy-consuming products that are imported into Canada, or that are manufactured in Canada and shipped across provincial or territorial borders. The Act also gives the federal government the authority to set labelling requirements for these products so consumers can compare the energy efficiency of various models of the same product.</p> <p>Regulations made under the Act have been amended a number of times, most recently in 2008, to expand the list of products covered by the Act and enhance standards for some products already in place.</p> <p>There are several monitoring arrangements that govern the Act. A database will be used to identify the amount of energy that can be saved for specific products. It will also help in compiling statistics on energy consumption as well as develop alternative energy sources</p> <p>Importing into Canada, or trading between provinces, products that do not meet such energy efficiency standards, or tampering with an energy efficiency label, is a criminal offence. Failure to comply with regulations will result in the possibility of prosecution, fines and secondary offences.</p>

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