

WINDS OF CHANGE FOR GREEN HYDROGEN: THE NOVA SCOTIA OFFSHORE WIND ROADMAP AND ITS IMPLICATIONS

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As Canada and other Western nations grapple with implementation issues in the net-zero carbon emissions policies, hydrogen has emerged as a potential key piece of the solution. Hydrogen, which is produced through various means including natural gas reforming (gasification), electrolysis and pyrolysis, has garnered particular attention from government and investors alike in recent years. This attention in combination with the scale of recent investments is a clear signal that hydrogen is a steadily growing industry both in Canada and globally.

In recent months and years, the Canadian Government and various Provinces have established and released Hydrogen “roadmaps” for the development and growth of a hydrogen industry. The roadmaps have varied depending on the region and the availability of local resources such as natural gas for blue hydrogen and hydro power for electrolysis. In Atlantic Canada, given its access to marine ports and abundant wind resources, there is a drive to develop a green hydrogen economy. Atlantic Canada is a candidate to become a potential leader, both nationally and globally, in the production and export of green hydrogen.

Nova Scotia recently announced a new policy initiative, the Nova Scotia Offshore Wind Roadmap (the “Roadmap”)^[1] with legislative changes to make the region even more attractive and viable for investment in green hydrogen projects.

The Nova Scotia Offshore Wind Roadmap

The Nova Scotia provincial government introduced the Roadmap in May 2023. The twenty-page document speaks to the unique opportunity for Nova Scotia to become a pillar of the clean energy industry, and outlines factors that will support the Province in achieving its goal of offering leases for 5 GW of offshore wind energy by 2030 with a stated aim of increasing the production of green hydrogen.^[2]

The Roadmap also considers end-use scenarios for wind energy generated by offshore wind projects. Production and export of low-carbon fuels, such as green hydrogen, is identified as one of two key routes-to-market given the large demand for green fuels regionally, nationally and internationally.

Two key recent legislative changes are identified in the Roadmap: Bill C-49, and the investment tax credits

announced in Budget 2023. Both of which are crucial in capitalizing on the potential to establish the province as a leader in clean energy.

Bill C-49

Bill C-49, *An Act to amend the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act and the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and to make consequential amendments to other Acts* ("**Bill C-49**")^[3], introduced by the Honourable Jonathan Wilkinson, Canada's Minister of Natural Resources, on May 30, 2023 represents a significant step towards Atlantic Canada becoming a global leader in the production of green hydrogen.

Bill C-49, which is yet to be adopted, would amend the historic Atlantic Accord Acts^[4] to expand the mandate of offshore energy regulators in Newfoundland and Labrador and Nova Scotia, and to establish a framework of regulatory approval for offshore wind energy projects. Given that renewable energy is necessary to produce green hydrogen, streamlining the regulatory process and reducing barriers for wind energy projects is likely to lead the path for increased green hydrogen projects.

Amongst other changes, the following amendments are proposed by Bill C-49:

- Change the names of the Canada-Nova Scotia Offshore Petroleum Board and the Canada-Newfoundland and Labrador Offshore Petroleum Board to the Canada-Nova Scotia Offshore *Energy Regulator* and the Canada-Newfoundland and Labrador Offshore *Energy Regulator*, respectively (the "**Regulators**").
- Establish the Regulators as the regulating bodies for offshore renewable energy projects.
- Establish a ministerial decision-making process respecting the issuance of submerged land licences to carry out offshore renewable energy projects.

Altogether, the amendments proposed by Bill C-49 set out to establish a modern and comprehensive framework for government-regulated development of offshore renewable energy projects. If adopted, this will likely spark further investment and innovation into wind energy projects in Newfoundland and Labrador and Nova Scotia – crucial for the production of green hydrogen.

Although the Bill must still complete the remainder of the legislative process, the keen willingness from the federal government to position Canada as a leader in renewable energy and clean fuels suggests this will not be a challenge.

Budget 2023 Investment Tax Credits

The investment tax credits announced in Budget 2023^[5] are crucial for de-risking new clean energy projects

and supporting investment and innovation. The following two tax credits are especially relevant for green hydrogen projects:

- The Clean Technology Investment Tax Credit is a refundable tax credit worth up to 30 percent of the capital cost of investments into clean electricity technology, including wind power generation equipment.
- The Clean Hydrogen Investment Tax Credit is worth up to 40 percent of the capital cost of projects producing carbon with a carbon intensity within a certain range – the “cleaner” a hydrogen project is, the larger credit rate it will qualify for.

A piece of equipment which is eligible for the Clean Hydrogen Investment Tax Credit and another Climate Change Tax Credit may be claimed only once. However, the Clean Hydrogen Credit does not act to reduce the cost of the property that is used to determine the amount of the Atlantic Investment Tax Credit, which is available for qualified machinery used in the Atlantic Region – taxpayers can benefit fully from both. Altogether, the tax credits available offer a significant advantage for new clean energy projects in Atlantic Canada.

Looking Ahead

The evolving landscape of legislation and policy surrounding renewable energy projects will almost certainly spark further innovation and investment in Atlantic green hydrogen projects in 2023 and beyond. Low-cost and highly scalable capacity to generate clean wind energy combined with investment tax credits and fast-growing demand for green fuels put Nova Scotia and Newfoundland and Labrador in an excellent position to play a large role in the global energy transition towards clean energy.

Despite these exciting and promising changes, there are likely to be growing pains with Bill C-49, as there is with any new legislation. McMillan is well-equipped to offer insight and assistance in interpreting legislative and regulatory changes, and in navigating the complexities of the evolving landscape of hydrogen and clean energy. If you or your business have questions regarding recent developments in the energy sphere, please contact Sean Ralph or any member of McMillan’s National Energy Group – we would be pleased to speak with you.

[1] Government of Nova Scotia, “Nova Scotia Offshore Wind Roadmap” (May 2023), online: [Government of Nova Scotia](#).

[2] Nova Scotia Premier’s Office, “Province Sets Offshore Wind Target” (September 2022), online: [Government of Nova Scotia](#).

[3] Bill C-49 (First Reading), *An Act to amend the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act and the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*

and to make consequential amendments to other Acts, 1st Sess, 44th Parl, 2023.

[4] The *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* (S.C. 1987 c. 3), and the *Canada-Nova Scotia Offshore Petroleum Resources Accord Act* (S.C. 1988, c. 28).

[5] Government of Canada, “Budget 2023: A Made-in-Canada Plan” (March 2023), online: [Government of Canada](#).

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A Cautionary Note

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