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In force date of regulations: As of March 4, 2005*, the date a regulation comes into force is determined by subsection 3(6) of the *Regulations Act*. The date a regulation is made, the date a regulation is approved, the date a regulation is filed and any date specified in a regulation are important to determine when the regulation is in force.

*Date that subsections 3(6) and (7) and Sections 11 and 13 of *Regulations Act* and amendments to the *Regulations Act* made by Chapter 46 of the Acts of 2004 proclaimed in force.

N.S. Reg. 82/2005

Made:

Approved: March 24, 2005

Filed: March 30, 2005

Halifax-Dartmouth Bridge Commission By-law No. 2

Order in Council 2005-121 dated March 24, 2005
Amendment to by-laws made by the Halifax-Dartmouth Bridge Commission
and approved by the Governor in Council
pursuant to Section 7 of the *Halifax-Dartmouth Bridge Commission Act*

The Governor in Council on the report and recommendation of the Minister of Finance dated February 5, 2005, and pursuant to Section 7 of Chapter 192 of the Revised Statutes of Nova Scotia, 1989, the *Halifax-Dartmouth Bridge Commission Act*, is pleased to approve the amendment to the Halifax-Dartmouth Bridge Commission By-law No. 2 to increase the allowable gross vehicle weight for trucks on the A. Murray MacKay Bridge in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after March 24, 2005.

Schedule "A"**Halifax-Dartmouth Bridge Commission
By-law No. 2**

- 3(c) No person shall operate upon the A. Murray MacKay Bridge a vehicle or combination of vehicles, either unladen or with load:
- (i) having an axle weight in excess of 9100 kilograms; or
 - (ii) having a gross weight in excess of 58,500 kilograms (62,500 kilograms on or after January 1, 2006);
or
 - (iii) having a weight in excess of the maximum weight for an axle assembly (including minimum distances between axle centres and permitted vehicle configurations) operating on a Schedule "C" highway specified in Schedule "A" to the "Weights and Dimensions of Vehicles Regulations" (the "Regulations") made by the Minister of Transportation and Public Works pursuant to Section 191 of the *Motor Vehicle Act* (Nova Scotia);
 - (iv) words which are defined in the Regulations shall have the same meaning in this Section as they respectively are given in the Regulations.

N.S. Reg. 83/2005

Made: February 28 and March 24, 2005

Approved: March 24, 2005

Filed: March 30, 2005

Prosthetic Devices Tariffs Regulations

Order in Council 2005-122 dated March 24, 2005

Amendment to regulations made by the Minister of Health and the Governor in Council pursuant to Section 13 and subsection 17(2) of the *Health Services and Insurance Act*

The Governor in Council on the report and recommendation of the Minister of Health dated February 28, 2005, and pursuant to subsection 17(2) of Chapter 197 of the Revised Statutes of Nova Scotia, 1989, the *Health Services and Insurance Act*, is pleased, effective on and after April 1, 2005, to

- (a) amend the *Prosthetic Devices Tariffs Regulations*, N.S. Reg. 32/99, made by the Minister of Health and the Governor in Council by Order in Council 1999-146 dated April 7, 1999, in accordance with the extension of the tariff amounts made by the Minister of Health pursuant to clause 13(1)(c) of the Act, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation; and
- (b) approve the authorization by the Minister of Health of payments in respect of the tariff extension referred to in clause (a).

Order

In the matter of an amendment to the *Prosthetic Devices Tariffs Regulations* made pursuant to Section 13 and subsection 17(2) of the *Health Services Insurance Act*

- and -

In the matter of an extension of the tariff of fees established by the Minister of Health pursuant to clause 13(1)(c) of the *Health Services Insurance Act* with respect to prosthetic devices

I, Angus MacIsaac, Minister of Health for the Province of Nova Scotia, pursuant to clause 13(1)(c) of Chapter 197 of the Revised Statutes of Nova Scotia, 1989, the *Health Services and Insurance Act*, hereby extend the tariffs of fees for arm and leg prostheses and mastectomy prostheses, as established in the *Prosthetic Devices Tariffs Regulations*, N.S. Reg. 32/99, made by the Minister of Health and the Governor in Council by Order in Council 1999-146, dated April 7, 1999, until March 31, 2008, as set out in the amendments to the regulations set forth in Schedule "A", and I authorize payments in respect of the tariffs as extended.

This Order is effective on and after April 1, 2005.

Dated and made at Halifax Regional Municipality, Province of Nova Scotia, February 28, 2005.

Sgd: *Angus MacIssac*
Honourable Angus MacIsaac
Minister of Health

Schedule "A"

**Amendments to the *Prosthetic Devices Tariffs Regulations*
made by the Minister of Health and the Governor in Council
pursuant to Section 13 and subsection 17(2)
of Chapter 197 of the Revised Statutes of Nova Scotia, 1989,
the *Health Services and Insurance Act***

The *Prosthetic Devices Tariffs Regulations*, N.S. Reg. 32/99, made by the Minister of Health and the Governor in Council by Order in Council 1999-146 dated April 7, 1999, are amended by

- (a) striking out "2005" in subsections 2(2) and 3(2) and substituting "2008"; and
- (b) striking out "2005" in the titles of Schedules "A" and "B" and substituting "2008".

N.S. Reg. 84/2005

Made: March 31, 2005

Filed: April 4, 2005

Commercial Carrier Safety Fitness Rating and Compliance Regulations

Order in Council 2005-145 dated March 31, 2005
Regulations made by the Governor in Council
pursuant to Section 303G of the *Motor Vehicle Act*

The Governor in Council on the report and recommendation of the Minister of Service Nova Scotia and Municipal Relations dated March 14, 2005, and pursuant to Section 303G of Chapter 293 of the Revised Statutes of Nova Scotia, 1989, the *Motor Vehicle Act*, is pleased, effective on and after March 22, 2005, to

- (a) repeal the regulations respecting commercial vehicle carrier profile and compliance made by Order in Council 97-321 dated June 3, 1997, N.S. Reg. 60/97; and
- (b) make new regulations respecting commercial carrier safety fitness rating and compliance in the form set forth in Schedule "A" attached to and forming part of the report and recommendation.

Schedule "A"

**Regulations Respecting Commercial Carrier Safety Fitness Rating and Compliance
made pursuant to Section 303G of the
Revised Statutes of Nova Scotia, 1989,
the *Motor Vehicle Act***

Citation

- 1 These regulations may be cited as the *Commercial Carrier Safety Fitness Rating and Compliance Regulations*.

Definitions

- 2 In these regulations,

- (a) “acceptable safety fitness rating” means a rating of satisfactory, satisfactory unaudited, or conditional given by the Registrar to a carrier under Section 6;
- (b) “Act” means the *Motor Vehicle Act*;
- (c) “adequately insured”, with respect to a carrier, means having the insurance required by the regulations respecting carriage of freight by vehicle made under the Act;
- (d) “at-fault collision” means a reportable accident in which the Registrar deems the driver to be fully or partially responsible for the accident;
- (e) “carrier” means a carrier as defined in clause 303A(a) of the Act;
- (f) “commercial vehicle” means a commercial vehicle as defined in clause 303A(b) of the Act;
- (g) “Commercial Vehicle Safety Alliance” means the non-profit corporation with head office in Washington, D.C, United States, consisting of representatives of federal, state and provincial government agencies and private industry in the United States, Canada and the Republic of Mexico that is dedicated to improving commercial vehicle safety;
- (h) “conditional rating” means the safety fitness rating given to a carrier in accordance with subsection 6(3);
- (i) “cumulative fleet size” means the total of the single-day fleet sizes for a carrier over a period of time prescribed by the Registrar;
- (j) “demerit point” means a point value set out in Appendix “A” - Demerit Point System Table opposite a conviction, out-of-service inspection or at-fault collision and assigned to a carrier as a demerit for the conviction, out-of-service inspection or at-fault collision;
- (k) “demerit index” means a single index calculated in accordance with Section 17 that combines a carrier’s overall demerit points;
- (l) “driver” means a driver of a commercial vehicle licensed under the Act;
- (m) “emergency vehicle” means a vehicle operated by or on behalf of a police force or fire department or an ambulance;
- (n) “facility audit” means an audit performed by the Department, or an agent authorized by the Department, of a carrier’s compliance with the record keeping requirements of Section 303D of the Act;
- (o) “inspection” means an inspection of a driver or commercial vehicle using the criteria established by the Commercial Vehicle Safety Alliance;
- (p) “intervention level 1” means the demerit index value calculated in accordance with subsection 18(2) that requires the Registrar to intervene with a carrier in accordance with subsection 20(1);
- (q) “intervention level 2” means the demerit index value calculated in accordance with subsection 18(3) that requires the Registrar to intervene with a carrier in accordance with subsection 20(2);

- (r) “intervention level 3” means the demerit index value calculated in accordance with subsection 18(4) that requires the Registrar to intervene with a carrier in accordance with subsection 20(3);
- (s) “National Safety Code number” means an identification number assigned to a carrier by the Registrar;
- (t) “out-of-service inspection” means an inspection by a motor vehicle inspector in the course of which a driver or commercial vehicle is found to be unsafe to operate on a highway;
- (u) “reciprocating jurisdiction” means a reciprocating jurisdiction as defined in clause 303A(c) of the Act;
- (v) “reportable accident” means an accident involving a commercial vehicle that results in
 - (i) injury or death to a person, or
 - (ii) property damage that appears to be of \$1000 or more;
- (w) “safety fitness certificate” means the certificate issued by the Department in accordance with Section 9;
- (x) “safety fitness rating” means the rating that must be given to a carrier by the Registrar based upon the factors set out in subsection 4(1);
- (y) “satisfactory rating” means the safety fitness rating given to a carrier in accordance with subsection 6(1);
- (z) “satisfactory unaudited rating” means the safety fitness rating given to a carrier in accordance with subsection 6(2);
- (aa) “single-day fleet size” means the total number of commercial vehicles that a carrier owns, leases or is otherwise responsible for on any particular day;
- (ab) “unsatisfactory rating” means the safety fitness rating given to a carrier in accordance with subsection 6(4); and
- (ac) “vehicle” means a vehicle as defined in clause 2(ca) of the Act.

Application of regulations

3 (1) Except as provided in subsection (2), these regulations apply to

- (a) the following commercial vehicles registered in the Province or a reciprocating jurisdiction:
 - (i) a truck, truck-tractor, trailer, or a combination thereof that has a registered gross vehicle weight of more than 4500 kg,
 - (ii) a bus designed, constructed and used for transporting passengers, with a designated seating capacity of more than 10 persons, including the driver;
- (b) the following drivers licensed under the Act or by a reciprocating jurisdiction:

- (i) an employee of a carrier who drives a commercial vehicle to which these regulations apply that a carrier owns, leases or is otherwise responsible for,
 - (ii) a carrier, while driving a commercial vehicle to which these regulations apply that the carrier owns, leases or is otherwise responsible for;
 - (c) carriers that operate commercial vehicles to which these regulations apply in the Province.
- (2) These regulations do not apply to the following vehicles:
- (a) a recreational vehicle or a vehicle towing a recreational vehicle, when not being operated for the purpose of commercial venture for profit or gain;
 - (b) an emergency vehicle;
 - (c) a bus, when being operated for personal use.

How safety fitness rating is given

- 4 (1) The Registrar must give each carrier a safety fitness rating based on the categories of safety fitness rating in Section 6 and, except as exempted under subsection 7(3), the carrier's application for a safety fitness rating.
- (2) The Registrar may review the safety fitness rating of a carrier at any time and may change the carrier's rating in accordance with these regulations.
- (3) Despite subsection (1), a carrier that is given a safety fitness rating by a reciprocating jurisdiction that is, in the opinion of the Registrar, equivalent to the safety fitness rating that the Registrar would have given to the carrier, does not require a safety fitness rating from the Registrar but is deemed, for the purposes of these regulations, to have the safety fitness rating the Registrar would have given to the carrier.

Prohibition against operating without safety fitness rating and safety fitness certificate

- 5 (1) A driver must not drive, and a carrier must not permit a commercial vehicle to be driven, upon a highway unless the carrier has a satisfactory, satisfactory unaudited or conditional rating and a valid safety fitness certificate issued by the Registrar, or is deemed to have a satisfactory, satisfactory unaudited or conditional rating under subsection 4(3).
- (2) The Registrar must not register a commercial vehicle of a carrier or issue a carrier a vehicle permit, replacement number plate or replacement validation sticker unless the carrier has a satisfactory, satisfactory unaudited or conditional rating and a valid safety fitness certificate issued by the Registrar.

Categories of safety fitness ratings

- 6 (1) The Registrar must give a satisfactory rating to a carrier if all of the following apply to the carrier:
- (a) the carrier's demerit index is equal to or less than intervention level 1;
 - (b) the carrier has passed a facility audit;
 - (c) the Registrar is otherwise satisfied as to the carrier's ability to operate safely.

- (2) The Registrar must give a satisfactory unaudited rating to a carrier if all of the following apply to the carrier:
- (a) the carrier's demerit index is equal to or less than intervention level 1;
 - (b) the carrier has not had a facility audit;
 - (c) the Registrar is otherwise satisfied as to the carrier's ability to operate safely.
- (3) The Registrar must give a conditional rating to a carrier if any of the following apply to the carrier and the Registrar is otherwise satisfied as to the carrier's ability to operate safely:
- (a) the carrier's demerit index is
 - (i) intervention level 2, or
 - (ii) intervention level 3 and the Registrar has not held a hearing under Section 24;
 - (b) at a hearing under Section 24, the Registrar permits the carrier to undertake another action plan under clause 24(2)(a);
 - (c) the carrier has failed a facility audit, except a facility audit under Section 25; or
 - (d) the carrier passes a facility audit under Section 25.
- (4) The Registrar must give an unsatisfactory rating to a carrier if any one of the following applies to the carrier:
- (a) the carrier's demerit index is intervention level 3 and at a hearing under Section 24 the Registrar does not permit the carrier to undertake another action plan under clause 24(2)(a);
 - (b) the carrier is not adequately insured;
 - (c) the carrier fails to comply with any special operating condition imposed under clause 24(3)(a);
 - (d) the carrier fails to renew a safety fitness certificate under Section 10 [7] before the expiry date;
 - (e) the Registrar revokes the carrier's safety fitness certificate under Section 11; or
 - (f) the Registrar is otherwise not satisfied as to the carrier's ability to operate safely.

Application for safety fitness rating and safety fitness certificate and renewals

- 7 (1) An application for a safety fitness rating and safety fitness certificate, or for renewal of a safety fitness certificate, must be made on the form prescribed by the Registrar and, except as exempted under subsection (3), must be submitted to the Registrar together with all of the following:
- (a) proof of the carrier's insurance, as prescribed by the regulations respecting carriage of freight by vehicle made under the Act;
 - (b) proof of the carrier's incorporation or partnership registration, if applicable;

- (c) proof that the carrier, if incorporated, has made all required filings and registrations with the Registry of Joint Stock Companies, and is in good standing with the Registry of Joint Stock Companies;
 - (d) a declaration, made by a person familiar with the business operations of the carrier and who has the authority to bind the carrier, that contains
 - (i) certification that the information in the application is true,
 - (ii) acceptance of responsibility by the carrier for the operation of commercial vehicles imposed by law on the carrier,
 - (iii) a statement of whether any principal, director, officer or partner of the carrier is or has been a member of a carrier that has or has had an unsatisfactory rating in Nova Scotia or an equivalent rating in any reciprocating jurisdiction, and
 - (iv) details surrounding the revocation of, or refusal to issue, any safety fitness certificate or equivalent issued to the carrier;
 - (e) if the carrier has been issued a safety fitness certificate or equivalent in a reciprocating jurisdiction and the carrier is moving their operation to Nova Scotia, a copy of their government operating record from the reciprocating jurisdiction;
 - (f) an application fee of \$53.00, unless exempted under subsection (2);
 - (g) any additional information and documentation that the Registrar requires.
- (2) There is no application fee for a carrier that makes an application for only a vehicle or vehicles owned by a non-profit, charitable or religious organization used exclusively for transporting passengers and not for the purpose of gain.
- (3) A carrier is not required to apply for a safety fitness rating and safety fitness certificate or apply for a renewal of a safety fitness certificate if each commercial vehicle that the carrier owns, leases or otherwise is responsible for is a vehicle with farm plates registered to a farmer.

False statement made in application

- 8 A person must not make a false statement in an application by a carrier for a safety fitness rating and safety fitness certificate, or for renewal of a safety fitness certificate.

Issuance of safety fitness certificate

- 9 (1) The Registrar may issue or renew a safety fitness certificate in accordance with these regulations.
- (2) A safety fitness certificate is valid for 1 year.
- (3) A safety fitness certificate must state
- (a) the name of the carrier;
 - (b) the address of the carrier's principal place of business in Nova Scotia;
 - (c) the National Safety Code number assigned to the carrier;

- (d) the carrier's safety fitness rating at the time the certificate is issued;
- (e) the expiry date of the certificate.

Refusal to issue safety fitness certificate

10 (1) The Registrar may refuse to issue or renew a safety fitness certificate, if

- (a) the application is not complete, in accordance with subsection 7(1);
 - (b) the application contains a false statement;
 - (c) the carrier has had an unsatisfactory rating in Nova Scotia or an equivalent rating in a reciprocating jurisdiction;
 - (d) the carrier, if incorporated, has not made all required filings and registrations with the Registry of Joint Stock Companies, or is not in good standing with the Registry of Joint Stock Companies;
 - (e) a principal, director, officer or partner of the carrier is or has been a member of a carrier that has or has had an unsatisfactory rating in Nova Scotia or an equivalent rating in a reciprocating jurisdiction;
 - (f) the carrier is not adequately insured; or
 - (g) the Registrar is otherwise not satisfied as to the carrier's ability to operate safely.
- (2)** The Registrar must refuse to issue a carrier a safety fitness certificate or refuse to renew a carrier's safety fitness certificate if the carrier has an unsatisfactory rating.

Revocation of safety fitness certificate

11 (1) The Registrar may revoke a carrier's safety fitness certificate if

- (a) the carrier's application contains a false statement, in accordance with Section 8;
 - (b) the carrier has had an unsatisfactory rating in Nova Scotia or an equivalent rating in a reciprocating jurisdiction;
 - (c) the carrier, if incorporated, has not made all required filings and registrations with the Registry of Joint Stock Companies, or is not in good standing with the Registry of Joint Stock Companies;
 - (d) a principal, director, officer or partner of the carrier is or has been a member of a carrier that has or has had an unsatisfactory rating in Nova Scotia or an equivalent rating in a reciprocating jurisdiction;
 - (e) the applicant is not adequately insured; or
 - (f) the Registrar is otherwise not satisfied as to the carrier's ability to operate safely.
- (2)** The Registrar must revoke a carrier's safety fitness certificate if the carrier has an unsatisfactory rating.

- (3) If the Registrar revokes a carrier's safety fitness certificate, the Registrar must suspend or cancel the number plates and vehicle permits that have been issued for any commercial vehicle that the carrier owns, leases or is otherwise responsible for, for a period of time considered appropriate by the Registrar.
- (4) If the Registrar suspends or cancels a carrier's number plates and vehicle permits under subsection (2), the carrier must immediately return to the Registrar all those number plates and vehicle permits.
- (5) If the Registrar revokes a carrier's safety fitness certificate, the carrier is deemed to have an unsatisfactory rating from and including the date of revocation.

Replacement safety fitness certificate

- 12** (1) If the Registrar changes the safety fitness rating of a carrier in accordance with subsection 4(2) before the expiry date of the carrier's safety fitness certificate, the Registrar must issue the carrier a replacement certificate, at no fee, that is valid until the expiry date of the fitness certificate that is being replaced.
- (2) If a carrier changes their name or their principal place of business in Nova Scotia, the carrier must notify the Registrar with details of the change within 10 days of the change.
 - (3) If a carrier changes any of its principals, directors, officers or partners, the carrier must notify the Registrar with details of the change, including whether any new principal, director, officer or partner is or has been a member of a carrier that has or has had an unsatisfactory rating in Nova Scotia or an equivalent rating in a reciprocating jurisdiction, within 10 days of the change.
 - (4) Except as provided in subsection (5), when the Registrar receives notification in accordance with subsection (2) or (3), the Registrar must issue a replacement certificate, at no fee, that is valid until the expiry date of the safety fitness certificate that is being replaced.
 - (5) The Registrar may refuse to issue a replacement safety fitness certificate if a new principal, director, officer or partner of the carrier is or has been a member of a carrier that has or has had an unsatisfactory rating in Nova Scotia or an equivalent rating in a reciprocating jurisdiction, and may revoke the carrier's safety fitness certificate in accordance with Section 11.
 - (6) When a replacement certificate is issued to a carrier under this Section, the carrier must destroy the certificate that is replaced along with all copies of it.
 - (7) Subsections (2) and (3) do not apply to a carrier if each commercial vehicle that the carrier owns, leases or is otherwise responsible for is a vehicle with farm plates registered to a farmer.

Extending safety fitness certificate

- 13** (1) Despite any other provision of these regulations, the Registrar may permit a carrier to operate for up to 30 days after the expiry date of their safety fitness certificate.
- (2) Despite any other provision of these regulations, the Minister may authorize the Registrar to extend the term of a carrier's safety fitness certificate for as long as the Minister requires.

Carrier record maintained by Registrar

- 14** (1) The Registrar must maintain a record for each carrier that includes all of the following:
- (a) the National Safety Code number assigned to the carrier;

- (b) the carrier's current safety fitness rating;
 - (c) warnings, refusals to issue or revocations of safety fitness certificates, suspensions of number plates, cancellations of vehicle permits and contraventions of enactments of the Province, a reciprocating jurisdiction or the Parliament of Canada relating to motor vehicles that are incurred by the carrier;
 - (d) results of safety inspections, trip inspections and facility audits;
 - (e) results of interviews under Section 22 and hearings under Section 24, including an action plans to be carried out and special operating conditions imposed;
 - (f) convictions, reportable accidents and inspections of a driver, and including a conviction for an offence committed by a driver while the driver was employed by the carrier whether or not the driver is employed by the carrier at the time of the conviction;
 - (g) the demerit points assigned to the carrier.
- (2) The Registrar must maintain 3 separate totals of the demerit points assigned to a carrier as follows:
- (a) 1 total for convictions;
 - (b) 1 total for at-fault collisions; and
 - (c) 1 total for out-of-service inspections.
- (3) Demerit points must be assigned by the Registrar as set out in Appendix "A" - Demerit Point System Table for all of the following:
- (a) a conviction;
 - (b) an out-of-service inspection;
 - (c) an at-fault collision resulting in property damage;
 - (d) an at-fault collision resulting in physical injury;
 - (e) an at-fault collision resulting in fatality.

Removal of demerit points

- 15 (1) The Registrar must remove the demerit points assigned to a carrier for a conviction from the carrier's record 2 years after the date of the conviction.
- (2) The Registrar must remove the demerit points assigned to a carrier for an out-of-service inspection or an at-fault collision from the carrier's record 2 years after the date of the inspection or the collision.
- (3) The Registrar may remove demerit points in accordance with the results of a show cause hearing under Section 24.

Calculation of adjusted demerit point totals

- 16** The Registrar must prescribe formulas to adjust the 3 separate totals of demerit points required by subsection 14(2) to eliminate, as far as possible, differences between carriers that,
- (a) for the demerit point totals for convictions and at-fault collisions, are the result of differences in cumulative fleet size;
 - (b) for the demerit point total for out-of-service inspections, are the result of differences in the number of inspections a carrier receives.

Calculation of demerit index

- 17** The Registrar must prescribe a formula to combine the 3 adjusted totals for a carrier, calculated in accordance with Section 16, into a single index of the carrier's overall demerit points, which is the demerit index for the carrier.

Calculation of intervention levels

- 18** (1) The Registrar must prescribe a formula to identify a demerit index number value for each of intervention levels 1, 2 and 3 in accordance with subsections (2) to (4).
- (2) Intervention level 1 is the demerit index number value that 5% of all carriers is expected to exceed.
 - (3) Intervention level 2 is the demerit index number value that 2% of all carriers is expected to exceed.
 - (4) Intervention level 3 is the demerit index number value that 0.2% of all carriers is expected to exceed.

Registrar may revise formulas

- 19** The Registrar may revise the formulas prescribed under Sections 16, 17 and 18 in accordance with a statistical analysis of carriers' records.

Intervention by Registrar

- 20** (1) If a carrier's demerit index is intervention level 1, the Registrar must
- (a) notify the carrier of this in writing; and
 - (b) advise the carrier in the notice that
 - (i) a facility audit may be carried out on the carrier, and
 - (ii) if the carrier is assigned further demerit points that increase the carrier's demerit index to intervention level 2, the Registrar may require the carrier to attend an interview with a person designated by the Registrar to formulate a plan for the carrier in accordance with subsection (2).
- (2) If a carrier's demerit index is intervention level 2, the Registrar must
- (a) notify the carrier of this in writing; and
 - (b) advise the carrier in the notice that
 - (i) a facility audit may be carried out on the carrier, and

- (ii) the Registrar may require the carrier to attend an interview with a person designated by the Registrar to formulate a plan in accordance with Section 22.
- (3) If a carrier's demerit index is intervention level 3, or if the carrier fails to attend an interview required by the Registrar under subsection (2), the Registrar must
- (a) notify the carrier of this in writing;
 - (b) advise the carrier in the notice that
 - (i) a facility audit may be carried out on the carrier, and
 - (ii) the Registrar may require the carrier to attend a hearing to show cause why the carrier should not be given an unsatisfactory rating in accordance with Section 24.

When notice deemed served

- 21 (1) A notice referred to in Section 20 that is made by Priority Post or courier service is deemed to have been served on the 3rd day after the notice is sent.
- (2) A notice referred to in Section 20 that is made by ordinary mail is deemed to have been served on the 5th day after the notice is sent.

Interview of carrier at intervention level 2

- 22 At an interview required by the Registrar under subsection 20(2), the person designated by the Registrar and the carrier must
- (a) attempt to identify the reasons why the carrier's demerit index is higher than average;
 - (b) evaluate possible action plans to prevent further demerit points; and
 - (c) attempt to jointly decide on an appropriate action plan that the carrier is willing to carry out and commits to.

Registrar may permit action plan for carrier at intervention level 3

- 23 (1) Before requiring a carrier to attend a show cause hearing under subsection 20(3), the Registrar may permit a carrier to undertake an appropriate action plan satisfactory to the Registrar that the carrier is willing to carry out and commits to if
- (a) the carrier has not had an opportunity to undertake an action plan before attaining a demerit index of intervention level 3; and
 - (b) the Registrar is satisfied that the continued operation of the carrier will not adversely affect the safety of the public.
- (2) If the Registrar permits a carrier to undertake an action plan under subsection (1), the Registrar may impose any special operating conditions that the Registrar considers appropriate.

Show cause hearing for intervention level 3 or failure to attend interview

- 24 (1) At a show cause hearing required by the Registrar under subsection 20(3), the Registrar and the carrier must
- (a) review the carrier's record; and

- (b) if applicable, identify the reasons why the action plan agreed to under Section 22 or undertaken under Section 23 failed.
- (2) Following the hearing, the Registrar may decide to
- (a) permit the carrier to undertake a more effective action plan than the previous action plan that was agreed to under Section 22 or undertaken under Section 23, if the Registrar is satisfied that
 - (i) the carrier made a sincere effort and took reasonable steps to comply with the previous action plan,
 - (ii) the carrier is willing to carry out and commits to carry out the more effective action plan, and
 - (iii) the continued operation of the carrier will not adversely affect the safety of the public; or
 - (b) give the carrier an unsatisfactory rating and revoke the carrier's safety fitness certificate in accordance with Section 11.
- (3) If the Registrar permits the carrier to undertake a more effective action plan under clause (2)(a), the Registrar may do any or all of the following:
- (a) impose any special operating conditions that [the] Registrar considers appropriate;
 - (b) leave the carrier's conditional rating unchanged for a period of time considered appropriate by the Registrar;
 - (c) remove any number of demerit points from the carrier's record that the Registrar considers appropriate.
- (4) If a carrier is assigned further demerit points after receiving permission from the Registrar to undertake a more effective action plan under clause (2)(a), or if the carrier fails to comply with any special operating condition imposed under clause (3)(a), the Registrar may immediately give the carrier an unsatisfactory rating and revoke the carrier's safety fitness certificate in accordance with Section 11.
- (5) If the carrier fails to attend the hearing, the Registrar may take any action that the Registrar could have taken if the carrier had attended the hearing.

Procedure for reassessing an unsatisfactory rating of a carrier given after a hearing

- 25 (1) A carrier whose safety fitness certificate is revoked as a result of a hearing may, after the period of time imposed under clause [subsection] 11(3), request that the Registrar conduct a facility audit of the carrier.
- (2) If a carrier passes a facility audit requested under subsection (1), the Registrar must
- (a) restore the carrier's safety fitness certificate;
 - (b) give the carrier a conditional rating for a period of time considered appropriate by the Registrar; and

- (c) remove all demerit points previously assigned to the carrier.
- (3) If the carrier does not pass the facility audit, the carrier keeps an unsatisfactory rating and the carrier's safety fitness certificate remains revoked.

Appendix A
Demerit Point System Table

Convictions		
Offence	Section	Points
Driver-related offences		
Motor Vehicle Act offences:		
1	Failing to obey peace officer (specify directions disobeyed)	83(1) 3
2	Failing to obey traffic signs or signals (specify)	83(2) 3
3	Failing to yield right of way to pedestrians on green or flashing green light	93(2)(a) 3
4	Failing to proceed in direction of arrow on green arrow light	93(2)(b) 3
5	Failing to yield right of way to pedestrians on green arrow light	93(2)(b) 3
6	Failing to stop at amber light when able to stop in safety	93(2)(c) or (d) 3
7	Failing to stop at red light	93(2)(e) 3
8	Failing to yield to pedestrian on right turn at red light	93(2)(e) 3
9	Failing to stop at flashing red light before entering intersection	93(2)(f) 3
10	Failing to yield to pedestrians or other vehicles (specify) at flashing red light	93(2)(f) 3
11	Failing to proceed with caution at flashing amber light	93(2)(g) 3
12	Failing to yield to traffic in proximity of intersection at flashing amber light	93(2)(g) 3
13	Failing to yield to pedestrians at walk light	93(2)(h) 3
14	Travelling in lane marked with red "X" traffic lane signal	93(4)(b) 2
15	Failing to immediately stop at scene of an accident	97(1) 3
16	Failing to provide name, address and registration after having an accident	97(3) 3
17	Failing to provide reasonable assistance to person injured after having an accident	97(3) 3
18	Failing to take reasonable steps to locate and notify other party after collision with unattended vehicle or property (specify)	97(4) 3
19	Failing to report accident to police where injury or death or property damage of over \$1000 occurs (specify)	98(10) 3
20	Careless and imprudent driving	100(2) 2
21	Operating vehicle at excessive speed for existing conditions	101 3
22	Exceeding <i>prima facie</i> speed limit	102(1) 3
23	Failing to stop for stopped school bus exhibiting flashing red lights	103(3) 3

	Offence	Section	Points
24	Driving in excess of posted limit by between 1 and 15 km/hr	106A(a)	3
25	Driving in excess of posted limited by between 16 and 30 km/hr	106A(b)	3
26	Driving in excess of posted limited by 31 km/hr or more	106A(c)	3
27	Failing to obey stop or speed sign on bridge or causeway (specify sign)	108(3)	3
28	Failing to drive on right side of highway	110(1)	3
29	Failing to drive to right when approaching intersection, railroad right-of-way or narrow bridge or tunnel (specify one)	110(2)	3
30	Failing to drive to right on one-way street	110(4)	2
31	Failing to drive in right hand lane	111(a)	2
32	Changing lanes unsafely	111(b)	2
33	Driving in centre lane on three-lane highway	111(c)	2
34	Failing to follow posted lane speeds	111(d)	2
35	Driving or parking (specify) vehicle on left hand roadway where highway is divided	112(1)(a)	2
36	Passing improperly	114	3
37	Driving left of centre line	115(1) or (2)	3
38	Following too closely	117(1)	3
39	Commercial vehicle following within 60 m	117(2)	3
40	Failing to signal	119(1)	2
41	Improper signal	119(2)	2
42	Backing vehicle when such movement unsafe	120(1)	2
43	Turning vehicle to proceed in opposite direction where visibility less than 150 m	120(2)	2
44	Failing to obey signs prohibiting turns (specify sign violated)	120(4)	2
45	Making prohibited turn at exit ramp	121	2
46	Failing to yield right of way	122	4
47	Failing to yield to emergency vehicles giving audible and visible signals	123(2)	3
48	Failing to yield to pedestrians within crosswalk	125(1)	3
49	Passing stopped vehicle at crosswalk	125(2)	3
50	Permitting a person to ride on portion of vehicle not designed for passenger	129(3)	2
51	Driving when control or view obstructed by load or passenger	129(7)	2
52	Operating bus with open door	130	2
53	Driving through safety zone	131	2
54	Failing to stop at railway crossing	132(1)	3
55	Failing to stop at stop sign	133(1)	3
56	Failing to obey yield sign	134(3)	3
57	Stopping or parking in prohibited area	143	2
58	Operating motor vehicle on highway in race or on wager	163(1)	3
59	Driving while license cancelled, revoked or suspended	287(2)	3

	Offence	Section	Points
<i>Criminal Code (Canada) offences:</i>			
1	Criminal negligence	219	5
2	Criminal negligence causing death	220	5
3	Criminal negligence causing bodily harm	221	5
4	Dangerous operation of a motor vehicle	249(1)(a)	5
5	Dangerous operation of a motor vehicle causing bodily harm	249(3)	5
6	Dangerous operating of a motor vehicle causing death	249(4)	5
7	Failing to stop at scene of accident	252(1)	5
8	Impaired driving	253(a)	5
9	Operating or having care and control of motor vehicle when blood alcohol level exceeds 80 mgs/100 ml	253(b)	5
10	Refusing to comply with demand made by peace officer under Section 254	254(5)	5
11	Impaired driving causing bodily harm	255(2)	5
12	Impaired driving causing death	255(3)	5
13	Operating a motor vehicle while disqualified	259(4)(a) or (b)	5

Driver-related and carrier-related violations

Motor Vehicle Act offences:

1	Operating or permitting operation of motor vehicle without valid number plate issued for that vehicle	37(a)	3
2	Displaying number plate not issued for vehicle	37(c)	3
3	Failing to exhibit slow movement emblem or device on a motor vehicle	117(4)	2
4	Driver failing to place and maintain flares at front and rear of disabled commercial vehicle	140(1)	2
5	Vehicle failing to have proper lighted head lamps and rear lamps	174(1)	2
6	Vehicle failing to have two head lamps	174(2)	1
7	Vehicle failing to have properly functioning rear lamps	174(4)	1
8	Vehicle failing to have properly functioning clearance lamps	174(5)	2
9	Vehicle failing to display proper marker lights or reflectors	174(11)	2
10	Vehicle failing to have proper electric turn signals	177(3)	1
11	Vehicle failing to have properly functioning brake lights at rear of vehicle	177(9)	1
12	Vehicle failing to have adequate brakes	181(1)	3
13	Vehicle failing to have properly functioning speedometer and odometer	182	1
14	Vehicle failing to have properly functioning horn	183(1)	1
15	Vehicle failing to have securely attached mirror	184(1)	1
16	Vehicle failing to have outside rear-vision mirror where view obstructed by trailer	184(2)	1
17	Vehicle failing to have windshield	184(3)	1

	Offence	Section	Points
18	Driving vehicle with windows or windshield (specify) obstructed	184(4)	1
19	Driving vehicle with ornament obstructing vision of driver	184(5)	1
20	Vehicle failing to have adequate windshield wipers	184(6)	1
21	Vehicle failing to have proper flag or light (specify) displayed at end of load	185	2
22	Driving vehicle with tailgate of vehicle open	186	4
23	Vehicle failing to have muffler in good working order	187(1)	1
24	Vehicle failing to have proper equipment to prevent escape of excessive fumes or smoke (specify)	187(2)	1
25	Towbar between vehicles exceeding 5 m	190(2)	4
26	Towbar between vehicles transporting poles exceeding 8 m	190(2)	4
27	Failing to have vehicle weighed when ordered	192(4)	3
28	Vehicle on highway with leaking load	199(1)	3
29	Vehicle failing to have mudguards, fenders or flaps (specify)	199(2)	1
30	Driving motor vehicle without insurance	230(1)	3
31	Directing driver to operate vehicle equipped otherwise than permitted by law (specify)	260(1)	3
32	Directing driver to operate vehicle exceeding weight permitted by law (specify)	260(1)	3
33	Directing driver to operate vehicle in manner contrary to law (specify)	260(1)	3
34	Operating vehicle on highway equipped in manner prohibited by <i>Motor Vehicle Act</i> or regulations (specify)	260(2)	1

Commercial Vehicle Drivers' Hours of Work Regulations offences:

1	Carrier permitting driver to exceed, or driver exceeding, permitted driving time	4(1)	3
2	Failing to be off duty for 24-hour period prior to accumulating 75 hours on duty	4(2)	5
3	Failing to comply with number of hours off duty specified by inspector	6	5
4	Failing to comply with conditions on permit	8(2)	5
5	Carrier permitting driver to drive, or driver driving, when driver declared out of service	10	5
6	Failing to maintain a daily log in duplicate	13	2
7	Failing to maintain graph grid and record information in daily log	15	2
8	Failing to retain and produce required documents on demand of inspector	16	3
9	Carrier permitting driver to drive, or driver driving, a commercial vehicle without required daily logs in driver's possession	17	2
10	Driver failing to enter in log total hours on duty	20	2
11	Driver failing to forward copy of daily log to carrier	22	3
12	Driver failing to forward daily log to home terminal or carrier's principal place of business in Nova Scotia	23	3

	Offence	Section	Points
13	Carrier failing to keep logs or documents for 6 months at principal place of business in Nova Scotia	24	3
14	Driver maintaining more than one daily log	26(1)	3
15	Carrier or driver falsifying or permitting falsification of logs or other documents	26(2)	3

Commercial Vehicle Trip Inspection and Records Regulations offences:

1	Failing to perform pre-trip inspection	3	1
2	Failing to record defects noted in inspection	5	3
3	Failing to record defects observed while in charge of vehicle	6	1
4	Failing to repair items on inspection report	8	3
5	Carrier failing to maintain required records	11	5
6	Carrier failing to maintain records at principal place of business in Nova Scotia for time period required	12	5

Commercial Vehicle Maintenance Standards offences:

1	Carrier failing to inspect, repair and maintain vehicles or failing to cause vehicles to be inspected, repaired and maintained	4(1)	3
2	Carrier failing to comply with commercial vehicle component performance standards	4(1)(a)	2
3	Carrier failing to ensure that replacement parts comply with requirements	4(1)(b)	3
4	Carrier failing to maintain records for vehicles	4(2)	5
5	Carrier failing to retain records at principal place of business in Nova Scotia for required period	4(3)	5
6	Carrier failing to comply with lubrication standards	5	5
7	Obstructing or hindering an inspector in the performance of duties	6(3)	3
8	Carrier or representative failing to assist an inspector in performance of duties	7(2)	3

Weights and Dimensions of Vehicles Regulations offences:

(Points are assigned only if the amount of weight greater than that permitted is more than 2000 kg.)

1	Operating or causing to be operated vehicle not represented in Schedule A of regulations	3(1)	3
2	Operating or causing to be operated vehicle with improper lift axle	3(4)	3
3	Operating or causing to be operated vehicle with overall width greater than 2.6 m	4(1)(a)	1
4	Operating or causing to be operated vehicle with mirrors extending more than 300 mm on each side	4(1)(b)	1
5	Operating or causing to be operated vehicle with auxiliary equipment extending more than 100 mm on each side	4(1)(c)	1
6	Operating or causing to be operated vehicle with overall height greater than 4.15 m	4(1)(d)	3

	Offence	Section	Points
7	Operating or causing to be operated single vehicle with overall length greater than 12.5 m	4(1)(e)	3
8	Operating or causing to be operated vehicle with front overhang greater than 1.0 m	4(1)(f)	3
9	Operating or causing to be operated vehicle with rear overhang greater than 1.0 m without flag	4(1)(g)	2
10	Operating or causing to be operated vehicle with rear overhang greater than 2.0 m	4(1)(h)	3
11	Operating or causing to be operated vehicle with spread-axle spacing or dimensions not in accordance with Schedule A of regulations	4(2)	3
12	Passenger vehicle with load extending beyond line of fenders on left side or extending more than 150 mm beyond line of fenders on right side	4(4)	3
13	Operating or causing to be operated farm tractor with overall width exceeding 4.0 m	4(6)	1
14	Operating or causing to be operated specified vehicle, model year 2002 and earlier, with interaxle spacing less than 2.6 m	4(10)	3
15	Operating or causing to be operated modified specified vehicle, model year 2002 and earlier, with interaxle spacing less than 2.6 m	4(11)	3
16	Operating or causing to be operated vehicle having weight in excess of weight on permit	5(1)(a)	1
17	Operating or causing to be operated vehicle having axle weight in excess of manufacturer's gross axle weight rating	5(1)(b)	1
18	Operating or causing to be operated vehicle having axle weight in excess of tire load ratings	5(1)(c)(i)	1
19	Operating or causing to be operated vehicle having axle weight in excess of 10 kg/mm tire width	5(1)(c)(ii)	1
20	Operating or causing to be operated vehicle having axle weight in excess of 9100 kg	5(1)(c)(iii)	1
21	Operating or causing to be operated vehicle having steering axle weight in excess of 9100 kg	5(1)(c)(iv)	1
22	Operating or causing to be operated vehicle having non-steering axle weight in excess of 6000 kg	5(1)(c)(v)	1
23	Operating or causing to be operated vehicle having weight in excess of maximum axle weight limit in Schedule A of regulations	5(1)(d)	1
24	Operating or causing to be operated vehicle having adjacent axles in group vary more than 1000 kg in weight	5(1)(e)	1
25	Operating or causing to be operated vehicle having weight in excess of 4500 kg on axle of assembly that is not an axle group	5(1)(f)	1
26	Operating or causing to be operated vehicle having gross vehicle weight greater than manufacturer's gross vehicle weight rating	5(1)(g)	1
27	Operating or causing to be operated vehicle having gross vehicle weight in excess of limits in Schedule A of regulations for class of highway	5(1)(h)	1

	Offence	Section	Points
28	Moving or causing to move object not a motor vehicle having a weight in excess of 9100 kg	5(2)	1
29	Operating or causing to be operated vehicle with solid tires having weight in excess of allowable weight	5(3)	1
30	Operating or causing to be operated vehicle having wheel weight in excess of 55% of weight prescribed for axle	5(4)	1
31	Operating out-of-Province vehicle with weights in excess of limits in Schedule A of regulations	6(6)	1
32	Driving or causing to be driven vehicle exceeding maximum weight posted on sign	9(3)	2
33	Operating or causing to be operated combination of vehicles in excess of weight on permit for one vehicle	10(1)	1
34	Operating or causing to be operated vehicle not conforming with a special permit	11(9)	3

Public Highways Act offences:

(Points are assigned only if the amount of weight greater than that permitted is more than 2000 kg.)

1	Failing to comply with Minister's order by operating vehicle contrary to prescribed weight limits	20(3)	1
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Motor Carrier Act (Public Passenger) offences:

1	Obstructing inspector	35(2)	4
2	Failing to submit public passenger vehicle for inspection	36(1)	2
3	Failing to repair public passenger vehicle within time specified	36(2)	3
4	Operating public passenger vehicle contrary to inspector's order	36(3)	3

Dangerous Goods Transportation Act and regulations offences:*Dangerous Goods Transportation Act*

1	Failing to comply with reasonable request of inspector	9(5)(a)	3
2	Obstructing or hindering inspector	9(5)(d)	3

Transportation of Dangerous Goods Regulations (Canada) - (adopted)

3	Transporting forbidden dangerous goods listed in column 3 of Schedule 1 or column 4 of Schedule 3 (specify column, schedule and goods)	1.5(1)	3
4	Transporting forbidden dangerous goods listed in column 8 or 9 of Schedule 1 (specify column and goods)	1.5(2)	3
5	Transporting dangerous goods in excess of quantity limit set out in column 8 or 9 of Schedule 1	1.6	3
6	Transporting dangerous goods where means of containment or transport do not display all applicable prescribed safety marks (specify)	1.7(c)	3
7	Transporting explosives in prohibited manner (specify)	1.8(a)	3
8	Failing to keep shipping document in specified location (specify)	3.2(4)	3

	Offence	Section	Points
9	Transporting dangerous goods without required information (specify) on shipping document	3.5	3
10	Transporting dangerous goods without proper dangerous goods safety mark (specify) displayed	4.1	3
11	Displaying misleading safety mark (specify)	4.2	3
12	Transporting dangerous goods in means of containment not permitted by Part 5 of regulations	5.1(1)	3
13	Transporting dangerous goods in standardized means of containment not in standard	5.1(2)	3
14	Transporting dangerous goods in means of containment not filled, closed, secured or maintained (specify) so that there will be no accidental release of dangerous goods under normal conditions	5.1(3)	3
15	Loading dangerous goods in means of containment in way that could lead to accidental release of dangerous goods under normal conditions	5.4	3
16	Securing dangerous goods in means of containment in way that could lead to accidental release of dangerous goods under normal conditions	5.4	3
17	Filling means of containment with dangerous goods in excess of specified limit (specify)	5.5	3
18	Transporting explosives together in the same means of transport other than as permitted by regulations	5.7	3
19	Transporting explosives in net explosive quantity exceeding that permitted by regulation (specify)	5.9	3
20	Transporting Class 2 dangerous goods in improper means of containment (specify)	5.10	3
21	Transporting dangerous goods without holding valid training certificate or being under supervision of adequately trained person (specify)	6.1(1)	3
22	Failing to produce training certificate or copy to inspector immediately upon request	6.8	3
23	Failing to report accidental release to person listed in subsection 8.1(5) (specify) if release consists of quantity or emission in excess of level set out in table (specify)	8.1(1)	3

Out-of-Service Inspections

(under *Commercial Carrier Safety Fitness Rating and Compliance Regulations*)

	Offence	Section	Points
1	Commercial vehicle or driver found to be unsafe to operate on a highway	14(3)(b)	3

At-Fault Collisions
(under *Commercial Carrier Safety Fitness Rating and Compliance Regulations*)

Offence	Section	Points
1 At-fault collision resulting in property damage	14(3)(c)	2
2 At-fault collision resulting in physical injury	14(3)(d)	4
3 At-fault collision resulting in fatality	14(3)(e)	6

N.S. Reg. 85/2005

Made: February 10, 2005

Approved: March 31, 2005

Filed: April 4, 2005

Crop Insurance Plan for Spring Grain

Order in Council 2005-148 dated March 31, 2005

Amendment to regulations made by the Nova Scotia Crop and Livestock Insurance Commission
and approved by the Governor in Council
pursuant to Section 6 of the *Crop and Livestock Insurance Act*

The Governor in Council on the report and recommendation of the Minister of Agriculture and Fisheries dated March 10, 2005, and pursuant to Section 6 of Chapter 113 of the Revised Statutes of Nova Scotia, 1989, the *Crop and Livestock Insurance Act*, is pleased to approve amendments made by the Nova Scotia Crop and Livestock Insurance Commission to the *Crop Insurance Plan for Spring Grain*, N.S Reg. 50/2003, made by the Nova Scotia Crop and Livestock Insurance Commission and approved by the Governor in Council by Order in Council 2003-88 dated March 14, 2003, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after March 31, 2005.

Nova Scotia Crop and Livestock Insurance Commission**Schedule "A"**

I certify that at a meeting held February 10, 2005, the Crop and Livestock Insurance Commission passed a motion to approve amendments to the *Crop Insurance Plan for Spring Grain* in the manner attached, with such changes as did not materially affect the substance of the regulations.

Dated and signed at Truro, Nova Scotia, February 14, 2005.

Crop and Livestock Insurance Commission

Per: sgd. *Gerald Post*
Gerald Post
Manager

**Amendment to the *Crop Insurance Plan for Spring Grain*
made pursuant to Section 6 of Chapter 113 of the
Revised Statutes of Nova Scotia, 1989,
the *Crop and Livestock Insurance Act***

- 1 The *Crop Insurance Plan for Spring Grain*, N.S Reg. 50/2003, made by the Nova Scotia Crop and Livestock Insurance Commission and approved by the Governor in Council by Order in Council 2003-88 dated March 14, 2003, is amended by adding Section 13A immediately after Section 13 as follows:

Whole farm adjustment option

- 13A (1)** An insured person may elect to include a whole farm adjustment option in their contract of insurance.
- (2)** An insured person who elects to include a whole farm adjustment option in their contract of insurance
- (a) pays a reduced premium in accordance with a discount schedule developed by an actuary for this purpose and approved by the Commission; and
- (b) is paid a reduced indemnity in accordance with Section 29 for an insured crop that has a yield lower than the total guaranteed production for that crop if another insured crop exceeds its total guaranteed production.

- 2 Section 29 of the Plan is amended by adding the following subsection immediately after subsection (2):

- (3)** Despite subsections (1) and (2), if an insured person elects to include a whole farm adjustment option under Section 13A, and the actual production of an insured crop exceeds that crop's total guaranteed production, the excess must be used to calculate a reduction in any indemnity payable for another insured crop under subsections (1) and (2), by multiplying the amount of the excess by the established price and applying the result against the amount that would otherwise be payable under subsections (1) and (2).