

# Royal Gazette

## Part II Regulations under the Regulations Act

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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 the *Regulations Act* and amendments to the *Regulations Act* made by Chapter 46 of the Acts of 2004 were proclaimed in force.

**N.S. Reg. 8/2013**

Made: January 8, 2013

Filed: January 16, 2013

Designation of Matters for Bargaining Between  
Minister of Education and UnionOrder dated January 8, 2013  
made by the Minister of Labour and Advanced Education  
pursuant to subsection 13(3) of the *Teachers' Collective Bargaining Act***In the Matter of Subsection 13(3)  
of Chapter 460 of the Revised Statutes of Nova Scotia, 1989,  
The Teachers' Collective Bargaining Act****Order**I, Marilyn More, Minister of Labour and Advanced Education, pursuant to subsection 13(3) of Chapter 460 of the Revised Statutes of Nova Scotia, 1989, the *Teachers' Collective Bargaining Act* (the "Act"),

- (a) confirm that I have received a copy of an agreement in writing made pursuant to subsection 13(2) of the Act between the Minister of Education and the Nova Scotia Teachers Union (the "Union"), dated July 20th, 2012 (the "Agreement"), respecting specific matters contained within subclause 2(h)(ii) of the Act including, for greater certainty, specific terms and conditions of employment or other matters under paragraph 2(h)(ii)(E), that are the subject of bargaining between the Minister of Education and the Union, which specific matters are enumerated in clause (b) of this Order, and
- (b) order that the matters referred to in Article 2 of the Agreement, which are enumerated below, are designated as matters that hereinafter are to be the subject of bargaining between the Minister of Education and the Union:
  - (a) additional instructional services;
  - (b) collection of money;
  - (c) legal assistance and protection;
  - (d) method of pay;
  - (e) retirement seminars;
  - (f) teachers' property loss or damage.

**Dated and made** at Halifax, Nova Scotia, Jan. 8, 2013Sgd.: *Marilyn More*  
Marilyn More  
Minister of Labour and Advanced Education

**N.S. Reg. 9/2013**

Made: January 16, 2013

Filed: January 16, 2013

Board Regulatory Rules

Order dated January 16, 2013  
Amendment to regulations made by the Utility and Review Board  
pursuant to Section 12 of the *Utility and Review Board Act*

**Order****NSUARB****Nova Scotia Utility and Review Board****In the Matter of the *Utility and Review Board Act*****and****In the matter of a motion to amend the *Board Regulatory Rules***

**Before:** Peter W. Gurnham, Q.C., Chair  
Roland A. Deveau, Q.C., Vice-Chair  
David J. Almon, LL.B., Member  
Wayne D. Cochrane, Q.C., Member  
Kulvinder S. Dhillon, P. Eng., Member  
Murray E. Doehler, P. Eng., CA, Member  
Dawna J. Ring, Q.C., Member  
Roberta J. Clarke, Q.C., Member

**Order**

**Whereas** the Nova Scotia Utility and Review Board by Resolution in writing made on the 20th day of December, 2012, passed a motion to amend the *Board Regulatory Rules* respecting proceedings before the Board;

**It is hereby ordered** that the *Board Regulatory Rules* (N.S. Reg. 235/2005 dated December 23, 2005, as amended up to N.S. Reg. 145/2012 dated June 28, 2012), made pursuant to Section 12 of the *Utility and Review Board Act*, S.N.S. 1992, c. 11, be amended by adding the subsections set out in Appendix "A" to this Order;

**It is further ordered** that the above amendments be effective as of the date of this Order.

**Dated** at Halifax, Nova Scotia, this 16th day of January, 2013.

Sgd.: *Elaine Wagner*  
Clerk of the Board

**Appendix A****Issues list**

**19 (4)** Notwithstanding the above, the Board may direct that certain issues or items will be excluded from consideration during the application.

**Multiplicity of proceedings**

- 19 (5) In an attempt to avoid multiplicity of proceedings on the same issue, the Board may, in any decision, identify issues that will not be revisited until a specified time period has elapsed, absent a significant change in circumstances, or other reason which, in the opinion of the Board, justifies an earlier consideration.

**Cross-examination of experts**

- 22 (8) The Board may, in a Hearing Order, set a date by which a party must indicate if that party requires the attendance of an expert witness, either in person or by electronic means, for purposes of cross-examination.

**Settlement**

- 25 (5) (a) The Board may, in a Hearing Order, set a date by which the parties are to advise the Board as to whether there is any reasonable prospect of settlement of all or part of the application.
- (b) The Board may, in a Hearing Order, set a dedicated period of time after the close of evidence to permit the parties to engage in settlement discussions.

**N.S. Reg. 10/2013**

Made: January 17, 2013

Filed: January 17, 2013

Renewable Electricity Regulations

Order in Council 2013-12 dated January 17, 2013  
Amendment to regulations made by the Governor in Council  
pursuant to Section 5 of the *Renewable Electricity Act*

The Governor in Council on the report and recommendation of the Minister of Energy dated August 16, 2012, and pursuant to Section 5 of Chapter 25 of the Acts of 2004, the *Electricity Act*, is pleased to amend the *Renewable Electricity Regulations*, N.S. Reg. 155/2010, made by the Governor in Council by Order in Council 2010-381 dated October 12, 2010, to add provisions respecting the generation of electricity using biomass, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after January 17, 2013.

**Schedule "A"**

**Amendment to the *Renewable Electricity Regulations*  
made by the Governor in Council under Section 5  
of Chapter 25 of the Acts of 2004,  
the *Electricity Act***

- 1 Section 2 of the *Renewable Electricity Regulations*, N.S. Reg. 155/2010, made by the Governor in Council by Order in Council 2010-381 dated October 12, 2010, is amended by
- (a) adding the following clause immediately after the definition of "Act":
- "co-firing" means the combusting of biomass and fossil fuels at the same time;
- (b) adding the following clause immediately after the definition of "electricity standard approval":

“firm” means, in respect of renewable low-impact electricity, that under normal operating conditions the facility generating the electricity has the ability to operate at its full-rated capacity through the control of its operator rather than having its output dependent upon the availability of the input source of energy, and applies only to electricity generated by facilities commissioned after December 31, 2001;

3 Section 5 of the regulations is amended by adding the following subsection immediately after subsection (2):

(2A) Each year beginning with the calendar year 2013, NSPI must operate the Port Hawkesbury biomass power generation plant as a base-loaded unit producing as close as practical to its rated output on a continuous basis.

4 The regulations are further amended by adding the following Section immediately after Section 6:

**Firm renewable electricity generation**

6A (1) In the calendar year 2013, NSPI must produce or acquire at least 260 GWh of firm renewable electricity.

(2) Beginning with the calendar year 2014, NSPI must produce or acquire at least 350 GWh of firm renewable electricity each year.

5 Section 7 of the regulations is repealed and the following Section substituted:

**Shortfalls and overages**

7 (1) A load-serving entity that is unable to meet a renewable electricity standard for a period of 12 months or less, because independent power producers cannot provide contracted electricity supplies at the contracted times or because of problems arising from the load-serving entity’s own renewable generation assets, must supply enough renewable electricity from other sources to make up the shortfall during the period.

(2) A load-serving entity that will be unable to meet a renewable electricity standard for longer than 12 months must apply to the Minister, who, if satisfied that the entity will be unable to meet the standard as described in subsection (1) for longer than 12 months, may permit the entity to supply enough renewable electricity from other sources to make up the shortfall on the terms and conditions determined by the Minister.

(3) The Board must allow a public utility to recover the costs of the public utility’s own renewable generation assets on the basis approved by the Board under the *Public Utilities Act*, together with the recovery of the costs of tariffs allowed under subsection 4A(6) of the Act and the costs of the public utility’s contracts allowed under subsection 4B(13) of the Act, to a maximum of costs in relation to a supply of renewable low-impact electricity of no more than the following:

(a) 133% of the minimum renewable electricity standard in Section 5;

(b) 125% of the renewable electricity standard in Section 6.

6 Subsection 8(1) of the regulations is repealed and the following subsection is substituted.

(1) No more than 350 000 dry tonnes annually of primary forest biomass over the average amount of primary forest biomass consumed annually in the Province for the years 1995 to 2005, that average being  $3.285 \times 10^6$  dry tonnes, may be used to attain any renewable electricity standard.

- 7 Section 11 of the regulations is repealed and the following Section substituted:
- 11** An application for an electricity standard approval must
- (a) be submitted to the Minister in a form required by the Minister;
  - (b) be completed and signed by an authorized signatory of the applicant; and
  - (c) for a biomass project, include a biomass fuel procurement plan outlining how the applicant intends to ensure that its fuel supply will meet sustainable harvesting requirements.
- 8 (1) Subsection 13(1) of the regulations is amended by striking out “The” and substituting “Subject to subsection (3), the”.
- (2) Section 13 of the regulations is further amended by adding the following subsection immediately after subsection (2):
- (3)** Before being approved under subsection (1), an applicant who is requesting approval of a biomass generation facility must satisfy the Minister that their biomass fuel procurement plan demonstrates that the applicant will meet sustainable harvesting requirements.
- 

**N.S. Reg. 11/2013**

Made: January 17, 2013

Filed: January 17, 2013

Renewable Electricity Regulations

Order in Council 2013-13 dated January 17, 2013  
Amendment to regulations made by the Governor in Council  
pursuant to Section 5 of the *Electricity Act*

The Governor in Council on the report and recommendation of the Minister of Energy dated September 27, 2012, and pursuant to Section 5 of Chapter 25 of the Acts of 2004, the *Electricity Act*, is pleased to amend the *Renewable Electricity Regulations*, N.S. Reg. 155/2010, made by the Governor in Council by Order in Council 2010-381 dated October 12, 2010, to add a 2020 renewable electricity standard, to enable the purchasing of power from Muskrat Falls and to provide changes to the feed-in tariff program, in the manner set forth in Schedule “A” attached to and forming part of the report and recommendation, effective on and after January 17, 2013.

**Schedule “A”**

**Amendment to the *Renewable Electricity Regulations*  
made by the Governor in Council under Section 5  
of Chapter 25 of the Acts of 2004,  
the *Electricity Act***

- 1 (1) Section 2 of the *Renewable Electricity Regulations*, N.S. Reg. 155/2010, made by the Governor in Council by Order in Council 2010-381 dated October 12, 2010, is amended by
- (a) adding the following definition immediately after the definition of “co-firing”:

“designated lands” has the same meaning as in the *Indian Act* (Canada);

- (b) adding the following definition[s] immediately after the definition of “municipal electric utility”:

“Muskrat Falls Generating Station” means the generating facility proposed to be constructed as part of the Lower Churchill Project in the Province of Newfoundland and Labrador;

“NS Mi’kmaw band council” means an entity referred to in clause 4A(8)(a) of the Act;

- (c) adding the following definition immediately after the definition of “renewable low-impact electricity”:

“request for proposals” means a request for proposals for procurement of renewable low-impact electricity under Section 4B of the Act;

- (d) repealing the definition of “university” and replacing it with:

“university” means any of the following institutions: Acadia University, Atlantic School of Theology, Cape Breton University, Dalhousie University, Mount Saint Vincent University, Nova Scotia College of Art and Design, Saint Mary’s University, St. Francis Xavier University, University of King’s College or Université Sainte-Anne;

- (2) Section 2 is further amended by repealing the definitions of “renewable electricity” and “renewable electricity standard”.

2 Subsection 3(1) of the regulations is amended by

- (a) in the definition of “cooperative”, adding

(i) “or continued” immediately after “incorporated”, and

(ii) “or the *Canada Cooperatives Act* (Canada)” immediately after “Act”.

- (b) in the definition [of] “municipality”, adding “located in the Province” immediately after “district municipality”;

- (c) in the definition of “development tidal array”,

(i) striking out “.5” and substituting “0.5”, and

(ii) striking out “and” immediately after the semicolon;

- (d) repealing the definition of “not-for-profit body corporate” and substituting the following:

“not-for-profit body corporate” means a corporation that

(i) qualifies as a non-profit organization under paragraph 149(1)(~~1~~)(1) of the *Income Tax Act* (Canada), or

(ii) is a registered charity under the *Income Tax Act* (Canada);

- (e) adding the following definitions immediately after the definition of “not-for-profit body corporate”:



“renewable electricity” means all of the following:

- (i) heritage renewable electricity,
- (ii) renewable low-impact electricity generated after December 31, 2001,
- (iii) imported electricity that in the opinion of the Minister is generated from renewable resources;

“renewable electricity standard” means a target share or amount of renewable electricity to be supplied by a load-serving entity as prescribed by the regulations.

- 3 Subsection 4(1) of the regulations is amended by striking out “its total sales” and substituting “the total amount of electricity supplied to its customers as measured at the customers’ meters”.
- 4 (1) Subsection 5(1) of the regulations is amended by striking out “its total sales” and substituting “the total amount of electricity supplied to its customers as measured at the customers’ meters”.
  - (2) Clause 5(2)(a) of the regulations is amended by adding “at least” immediately before “supply 5%”.
  - (3) Section 5 is further amended by adding the following subsection immediately before subsection (3):

**(2B)** In planning to meet its obligations under subsections (1) and (2), NSPI must not include electricity from distribution system connected renewable energy generators.
  - (4) Section 5 is further amended by adding the following subsection immediately after subsection (3):

**(3A)** Electricity supply purchased by a municipal electric utility that is sold to NSPI as spill energy under the Wholesale Market Non-Dispatchable Supplier Spill Tariff counts towards the municipal electric utility’s renewable electricity standard under subsection (1) if

    - (a) an equivalent amount of electricity is purchased from NSPI as backup/top-up energy under the Wholesale Market Backup/Top-Up Service Tariff; and
    - (b) the supply is consumed within the same calendar year as it is purchased.
- 5 (1) Subsection 6(1) of the regulations is amended by
  - (a) striking out “its total sales” and substituting “the total amount of electricity supplied to its customers as measured at the customers’ meters”; and
  - (b) adding “until 2020” immediately after “2015”.
- (2) Section 6 of the regulations is further amended by repealing Sections 6(2), (3) and (4) and substituting the following subsections:
  - (2)** To meet the renewable electricity standard in subsection (1), NSPI must
    - (a) continue to supply at least 5% of its total annual sales from independent power producers; and
    - (b) acquire at least 300 GWh from independent power producers in addition to the renewable low-impact electricity required to meet the requirements of Sections 4 and 5.

- (3) In planning for meeting its obligations under subsections (1) and (2) NSPI must not include electricity from distribution system connected renewable energy generators.
  - (4) In meeting its obligations under subsections (1) and (2), NSPI may include other sources of renewable electricity, including:
    - (a) contributions from distribution system connected renewable energy generators;
    - (b) contributions of 150 GWh or less from co-firing non-primary forest biomass at its generation facilities;
    - (c) contributions from renewable electricity generating facilities that it owns or operates.
- (3) Section 6 is further amended by adding the following subsection immediately after subsection (5):
- (6) Electricity supply purchased by a municipal electric utility that is sold to NSPI as spill energy under the Wholesale Market Non-Dispatchable Supplier Spill Tariff counts towards the municipal electric utility's renewable electricity standard under subsection (1) if
    - (a) an equivalent amount of electricity is purchased from NSPI as backup/top-up energy under the Wholesale Market Backup/Top-Up Service Tariff; and
    - (b) the supply [is] consumed within the same calendar year as it is purchased.
- 6 The regulations are further amended by renumbering Section 6A as Section 6B, and adding the following Section immediately after Section 6:

**Renewable electricity standard 2020**

- 6A (1)** Each year beginning with the calendar year 2020, each load-serving entity must supply its customers with renewable electricity in an amount equal to or greater than 40% of the total amount of electricity supplied to its customers as measured at the customers' meters for that year.
- (2) NSPI must meet the renewable electricity standard in subsection (1) by
    - (a) continuing to meet the requirements in clauses 6(2)(a) and (b);
    - (b) continuing to meet the requirements of subsection 6(4); and
    - (c) directly or indirectly acquiring, to deliver to customers in the Province, 20% of the electricity generated by the Muskrat Falls Generating Station if the Muskrat Falls Generating Station and associated transmission infrastructure is completed and in normal operation and the UARB has approved an assessment against NSPI under the *Maritime Link Act* and its regulations.
  - (3) In planning for meeting its obligations under subsections (1) and (2) NSPI must not include electricity from distribution connect renewable energy generators.
  - (4) To meet the renewable electricity standard in subsection (1), a municipal electric utility that purchases any of its electricity supply from a supplier other than NSPI must ensure that a minimum of 40% of that non-NSPI electricity supply is renewable electricity.

- (5) Electricity supply purchased by a municipal electric utility that is sold to NSPI as spill energy under the Wholesale Market Non-Dispatchable Supplier Spill Tariff counts towards the municipal electric utility's renewable electricity standard under subsection (1) if
- (a) an equivalent amount of electricity is purchased from NSPI as backup/top-up energy under the Wholesale Market Backup/Top-Up Service Tariff; and
  - (b) the supply is consumed within the same calendar year as it is purchased.

7 Subclause 18(2)(a)(iii) of the regulations is amended by striking out "arrays" and substituting "devices".

8 Subsection 19(1) of the regulations is amended by striking out "Section 20" and substituting "Sections 20 to 35".

9 Section 20 of the regulations is repealed and following Section is substituted:

- 20 (1)** For the purposes of clause 4A(8)(f) of the Act, in addition to the entities listed in clauses 4A(8)(a) to (e) of the Act, each of the following entities ~~qualify~~ [qualifies] as a generator:
- (a) a university;
  - (b) a wholly owned subsidiary of a municipality;
  - (c) a privately owned biomass combined heat and power plant that uses a portion of the heat produced;
  - (d) an entity that
    - (i) is registered with the Registrar of Joint Stocks [Companies], and
    - (ii) is a joint venture among 2 or more of any of the generators referred to in clauses 4A(8)(a) and 4A(8)(c) to (e) of the Act and clauses (a) and (b) who have contributed equity to the joint venture;
  - (e) an entity that
    - (i) is registered with the Registrar of Joint Stocks [Companies], and
    - (ii) 1 of the generators referred to in clauses 4A(8)(a) and 4A(c) to (e) of the Act or in clauses (a) and (b) owns more than 50 % of the voting shares or holds majority control of the entity;
  - (f) the Kwilmu'kw Maw-klusuaqn Negotiation Office.
- (2)** In addition to the eligibility qualifications in subsection 4A(8) of the Act and subsection (1), a generator must meet the following requirements:
- (a) if it is a not-for-profit body corporate or a co-operative, a majority of its members must reside in the Province and at least 25 members must reside in the municipality where the generation facility is located;
  - (b) if it is a community economic-development corporation, at least 25 shareholders must reside in the municipality where the generation facility is located.

- (3) A generator must own a generation facility, and the generation facility must meet all of the following requirements:
    - (a) it must be a generation facility in a class to which a community feed-in tariff applies under subsection 19(1);
    - (b) if it uses biomass, it must be a combined heat and power generation facility;
    - (c) it must interconnect with the electrical grid through a distribution system;
    - (d) it must be located in the Province;
    - (e) if it is wholly owned by a municipality or a wholly owned subsidiary of a municipality, it must be located within the boundaries of that municipality or the boundaries of an immediately adjacent municipality;
    - (f) if it is wholly owned by a[n] NS Mi'kmaw band council, it must be located on designated lands or lands acquired by a[n] NS Mi'kmaw band council through a transfer of fee simple or a lease;
    - (g) it must have been issued a feed-in tariff approval under Section 28.
  - (4) For the purposes of subsection (2), a generator owns a generation facility if it holds at least a majority ownership in the generation facility.
  - (5) For greater certainty, subsection (4) does not apply to a municipality.
  - (6) The ownership requirements in subsection 4A(8) of the Act and in subsection (2) do not apply to a combined heat and power generation facility described in clause 3(b) if the heat is consumed or used by the generator or an affiliate generator.
- 10 Section 21 of the regulations is amended by adding “on a normal amortized basis” immediately after “19(2)”.
- 11 Section 22 of the regulations is amended by re-lettering the second ~~clause~~ [clause] (c) as clause (d).
- 12 Section 23 of the regulations is amended by
- (a) adding “by a generator for a” immediately after “application”; and
  - (b) striking out “in a form” and substituting “in the form”.
- 13 Section 24 of the regulations is amended by
- (a) repealing clause (d) and substituting the following clause:
    - (d) a project concept identifying both of the following for the proposed generation facility:
      - (i) the type of facility,
      - (ii) the location;
  - (b) repealing clause (f) and substituting the following clause:

- (f) documentation identifying the lands of any NS Mi'kmaw band council that may be impacted by the project and demonstrating an acceptable means of engaging those Mi'kmaw communities to identify any of their concerns or interests, including interests in participation as owners, investors or suppliers;
- 14 Section 32 of the regulations is amended by adding the following subsection immediately after subsection (3):
- (3A) The applicant must be in good standing under the terms and conditions of their feed-in tariff approval at the time of commercial operation and the Minister must issue a letter to NSPI indicating the expected annual output of the project.
- 15 Clause 35(1)(g) of the regulations is amended by striking out "Tourism, Culture and Heritage" and substituting "Communities, Culture and Heritage".
- 16 The regulations are further amended by adding the following Sections immediately before Section 36:

**Responsibility of renewable electricity administrator**

**35A** The renewable electricity administrator must ensure that a procurement under Section 4B of the Act is fair, transparent and competitive, and subject to subsection 37(2) that the power purchase agreement executed by the bidder with the public utility is consistent with the request for proposals.

**Request for proposals requirements**

- 35B (1)** The primary basis for evaluating bids under a request for proposals is the degree to which the proposal provides the best value from renewable electricity for electricity ratepayers, and this requirement must be clearly indicated in any request for proposals.
- (2) A bidder must include the following their proposal:
- (a) how the proposed project will comply with the requirements of these regulations;
  - (b) how the proposed project will be economically viable;
  - (c) proof that it has the technical capacity necessary to undertake and complete the proposed project;
  - (d) the anticipated in-service date for the renewable low-impact electricity generation facility;
  - (e) any previous experience the bidder has with renewable electricity projects.
- (3) The requirements set out in subsection (2) must be clearly indicated in any request for proposals.

**Proposal evaluation**

**35C** In evaluating proposals submitted under a request for proposals, the renewable electricity administrator must

- (a) evaluate proposals in a timely fashion;
- (b) respond to any concerns or questions from bidders in a timely manner;

- (c) notify all bidders and the public utility in writing, no later than 7 days after making their decision, in a manner consistent with the manner in which notice may be provided under the request for proposals.

### **Report on procurement**

**35D** For each procurement, the renewable electricity administrator must provide a final report in writing to the Minister no later than 60 days after the notice provided for in clause 35C(c), that include[s] all of the following:

- (a) a summary of the request for proposal process;
- (b) details of the steps the renewable electricity administrator took to ensure a fair, transparent and competitive process;
- (c) a comparative economic analysis of the bids received;
- (d) details of any relevant considerations that support the renewable electricity administrator's selection of the successful bidder.

17 Section 38 of the regulations is amended by adding the following subsection immediately after subsection (1):

**(1A)** Each generator who receives a feed-in tariff approval must report to the Minister as follows:

- (a) annually, or at other intervals determined by the Minister;
- (b) its progress in putting its generator into service and its actual in-service date within 30 days after such facility is put into service;
- (c) the amount of electricity able to be connected following the system impact study by the Nova Scotia System Operator;
- (d) the annual amount of electricity expected to be produced prior to commercial operation;
- (e) the actual amount of electricity produced and any variance between actual and expected.

18 Section 43 of the regulations is amended by

- (a) adding the following clause immediately after clause (d) in subsection (1):
  - (e) establish limits for production or payments for excess electricity reported in subsection 38(1A).
- (b) adding the following clause immediately after clause (e) in subsection (2):
  - (f) suspend or revoke a procurement process under these regulations.

19 Subsection 47(1) of the regulations is amended by

- (a) adding "or 6A" immediately after "6" in clause (a);
- (b) adding "or 6A" immediately after "6" in clause (b);
- (c) adding "or 6A" immediately after "5" in clause (c).

**N.S. Reg. 12/2013**

Made: January 15, 2013

Filed: January 18, 2013

Ministerial Education Act Regulations

Order dated January 15, 2013  
Amendment to regulations made by the Minister of Education  
pursuant to Section 145 of the *Education Act*

**In the matter of Section 145 of Chapter 1 of the Acts of 1995-96,  
the *Education Act***

- and -

**In the matter of an amendment to the *Ministerial Education Act Regulations*  
made by the Minister of Education pursuant to  
Section 145 of the *Education Act***

**Order**

I, Ramona Jennex, Minister of Education for the Province of Nova Scotia, pursuant to Section 145 of Chapter 1 of the Acts of 1995-96, the *Education Act*, hereby amend the *Ministerial Education Act Regulations*, N.S. Reg. 80/97, made by the Minister of Education on June 24, 1997, to define bullying and cyberbullying and to update references to code of conduct policies in accordance with recent amendments to the Act, in the manner set forth in Schedule "A", effective on and after the date of this Order.

Dated and made at Halifax, Nova Scotia, Jan 15 2013, 2013 [*sic*].

Sgd.: *Ramona Jennex*  
Honourable Ramona Jennex,  
Minister of Education

**Schedule "A"**

**Amendment to the *Ministerial Education Act Regulations*  
made by the Minister of Education under Section 145 of Chapter 1 of  
the Acts of 1995-96, the *Education Act***

- 1 (1) The *Ministerial Education Act Regulations*, N.S. Reg. 80/97, made by the Minister of Education on June 24, 1997, are amended by striking out the heading to Section 47 and substituting the heading "**Regional school code of conduct policy**".
- (2) Subsection 47(1) of the regulations is repealed and the following subsection substituted:
  - (1) This Section constitutes the framework for the regional school code of conduct policy to be established by a school board under subsection 64(2) of the Act.
- (3) Section 47 of the regulations is further amended by adding the following subsection immediately after subsection (1):
  - (1A) In the Act and these regulations, the following definitions apply:

“bullying” means behaviour, typically repeated, that is intended to cause or should be known to cause fear, intimidation, humiliation, distress or other harm to another person’s body, feelings, self-esteem, reputation or property, and can be direct or indirect, and includes assisting or encouraging the behaviour in any way;

“cyberbullying” means bullying by electronic means that occurs through the use of technology, including computers or other electronic devices, social networks, text messaging, instant messaging, websites or e-mail;

“disruptive behaviour” means a student’s behaviour that does not meet the definition of severely disruptive behaviour, but that nevertheless disrupts the learning climate of the school, endangers the well-being of others or damages property, and disruptive behaviour includes all of the following:

- (i) profanity,
- (ii) disrespect or insubordination,
- (iii) failure to obey instructions,
- (iii)\* forging notes or excuses,
- (iv) non-attendance or poor attendance in school or specific classes,
- (v) loitering in school,
- (vi) petty stealing,
- (vii) shoving, pushing or scuffling,
- (viii) behaviour that is disruptive or that may create a safety hazard;

**[\*subclause numbering as in original]**

“severely disruptive behaviour” means a student’s behaviour that significantly disrupts the learning climate of the school, endangers the well-being of others or damages property, and severely disruptive behaviour includes all of the following:

- (i) chronic disruptive offences,
- (ii) smoking,
- (iii) vandalism,
- (iv) disruptions to school operations,
- (v) verbal abuse,
- (vi) racism or discriminatory behaviour,
- (vii) sexual harassment or assault,
- (viii) sexual misconduct, sexual abuse or physical abuse,
- (ix) physical violence,



- (x) bullying,
- (xi) use or possession of weapons,
- (xii) illegal activity.

2 Subsection 47(2) of the regulations is amended by

- (a) repealing the definitions of “disruptive behaviour” and “severely disruptive behaviour”;
- (b) striking out “clause” in the definition of “in-school suspension” and substituting “subsection”;
- (c) repealing the definition of “regional school code of conduct policy” and substituting the following definition:

“regional school code of conduct policy” means the regional school code of conduct policy established by a school board pursuant to clause 64(2)(r) of the Act;

- (d) repealing the definition of “provincial school code of conduct” and substituting the following definition:

“Provincial school code of conduct” means the code of conduct established by the Minister as part of the Provincial school code of conduct policy;

- (e) adding the following definition immediately after the definition of “Provincial school code of conduct”:

“Provincial school code of conduct policy” means the policy established by the Minister under clause 141(ja) of the Act;

- (f) striking out “clause” in the definition of “school code of conduct” and substituting “subsection”.

4[3] (1) Subsection 47(7) of the regulations is amended by striking out “consistent with the provincial student discipline school code of conduct policy as prescribed in this Section” and substituting “be consistent with the Provincial school code of conduct policy”.

- (2) Clause 47(7)(e) of the regulations is amended by striking out “Provincial School Code of Conduct” and substituting “Provincial school code of conduct”.

5[4] Clause 47(8)(a) of the regulations is amended by striking out “Provincial School Code of Conduct Policy, the provincial” and substituting “Provincial school code of conduct policy, the Provincial”.

**N.S. Reg. 13/2013**

Made: January 17, 2013

Filed: January 21, 2013

Prescribed Petroleum Products Prices

Order dated January 17, 2013  
made by the Nova Scotia Utility and Review Board  
pursuant to Section 14 of the *Petroleum Products Pricing Act*  
and Sections 16 to 19 of the *Petroleum Products Pricing Regulations*

**Order****NSUARB-GAS-W-13-03****In the Matter of the *Petroleum Products Pricing Act*****- and -**

**In the Matter of Prescribing Prices for Petroleum Products  
pursuant to Section 14 of the *Petroleum Products Pricing Act* and  
Sections 16 to 19 of the *Petroleum Products Pricing Regulations***

**Before:** Murray E. Doehler, C.A., P. Eng., Member**Order**

**Whereas** the purpose of the *Petroleum Products Pricing Regulations* is to ensure just and reasonable prices for specified petroleum products taking into consideration the objectives of preserving the availability of such products in rural areas, stabilizing prices of such products and minimizing the variances in prices of such products across the Province;

**And whereas** the Nova Scotia Utility and Review Board (“Board”) considered the manner in which it would proceed to set petroleum prices in its decision, 2006 NSUARB 108, issued on October 16, 2006;

**And whereas** the Board revised the retail margin and transportation allowance effective January 6, 2012, in its decision, 2011 NSUARB 181, issued on November 23, 2011;

**And whereas** the Board revised the wholesale margin effective January 4, 2013, in its decision 2012 NSUARB 213, issued on December 12, 2012;

**And whereas** the average of the average of the daily high and low reported product prices (in Canadian cents) for the week ended January 16, 2013, are:

Grade 1 Regular gasoline	71.6¢ per litre
Ultra-low-sulfur diesel oil	79.9¢ per litre

**Now therefore** the Board prescribes the benchmark prices for petroleum products to be:

Gasoline:	
Grade 1	71.6¢ per litre
Grade 2	74.6¢ per litre
Grade 3	77.6¢ per litre
Ultra-low-sulfur diesel oil	79.9¢ per litre

**And now therefore** the Board has determined, based on historical data regarding price changes and to achieve revenue neutrality, it is appropriate to apply, and the Board so orders, forward averaging corrections of:

Gasoline:	minus 0.3¢ per litre
Ultra-low-sulfur diesel oil:	minus 0.5¢ per litre

**And whereas** a winter blending adjustment of plus 4.6¢ per litre is required for ultra-low-sulfur diesel oil;

**And now therefore** the Board prescribes the prices for petroleum products as set forth in Schedule “A” effective on and after 12:01 a.m., January 18, 2013.

**Dated** at Halifax, Nova Scotia, this 17th day of January, 2013.

Sgd: *Elaine Wagner*  
Clerk of the Board

**Schedule "A"**

**Prices Prescribed for Petroleum Products**  
**under the *Petroleum Products Pricing Act* and the**  
***Petroleum Products Pricing Regulations***  
**effective on and after 12:01 a.m. on January 18, 2013**

<b>Nova Scotia Petroleum Price Schedule</b>								
<b>Petroleum Prices in Cents/Litre</b>					<b>Self-Service Pump Prices</b>		<b>Full-Service Pump Prices</b>	
					<b>(Pump Prices includes 15% HST)</b>			
	<b>Base Wholesale Price</b>	<b>Fed. Excise Tax</b>	<b>Prov. Tax</b>	<b>Wholesale Selling Price</b>	<b>Min</b>	<b>Max</b>	<b>Min</b>	<b>Max</b>
<b>Zone 1</b>								
Regular Unleaded	78.5	10.0	15.5	104.0	125.1	127.2	125.1	999.9
Mid-Grade Unleaded	81.5	10.0	15.5	107.0	128.6	130.6	128.6	999.9
Premium Unleaded	84.5	10.0	15.5	110.0	132.0	134.1	132.0	999.9
Ultra-Low-Sulfur Diesel	91.2	4.0	15.4	110.6	132.7	134.8	132.7	999.9
<b>Zone 2</b>								
Regular Unleaded	79.0	10.0	15.5	104.5	125.7	127.8	125.7	999.9
Mid-Grade Unleaded	82.0	10.0	15.5	107.5	129.1	131.2	129.1	999.9
Premium Unleaded	85.0	10.0	15.5	110.5	132.6	134.7	132.6	999.9
Ultra-Low-Sulfur Diesel	91.7	4.0	15.4	111.1	133.3	135.4	133.3	999.9
<b>Zone 3</b>								
Regular Unleaded	79.4	10.0	15.5	104.9	126.2	128.2	126.2	999.9
Mid-Grade Unleaded	82.4	10.0	15.5	107.9	129.6	131.7	129.6	999.9
Premium Unleaded	85.4	10.0	15.5	110.9	133.1	135.1	133.1	999.9
Ultra-Low-Sulfur Diesel	92.1	4.0	15.4	111.5	133.7	135.8	133.7	999.9
<b>Zone 4</b>								
Regular Unleaded	79.5	10.0	15.5	105.0	126.3	128.3	126.3	999.9
Mid-Grade Unleaded	82.5	10.0	15.5	108.0	129.7	131.8	129.7	999.9
Premium Unleaded	85.5	10.0	15.5	111.0	133.2	135.2	133.2	999.9
Ultra-Low-Sulfur Diesel	92.2	4.0	15.4	111.6	133.9	135.9	133.9	999.9
<b>Zone 5</b>								
Regular Unleaded	79.5	10.0	15.5	105.0	126.3	128.3	126.3	999.9
Mid-Grade Unleaded	82.5	10.0	15.5	108.0	129.7	131.8	129.7	999.9
Premium Unleaded	85.5	10.0	15.5	111.0	133.2	135.2	133.2	999.9
Ultra-Low-Sulfur Diesel	92.2	4.0	15.4	111.6	133.9	135.9	133.9	999.9
<b>Zone 6</b>								
Regular Unleaded	80.2	10.0	15.5	105.7	127.1	129.1	127.1	999.9
Mid-Grade Unleaded	83.2	10.0	15.5	108.7	130.5	132.6	130.5	999.9
Premium Unleaded	86.2	10.0	15.5	111.7	134.0	136.0	134.0	999.9
Ultra-Low-Sulfur Diesel	92.9	4.0	15.4	112.3	134.7	136.7	134.7	999.9

**N.S. Reg. 14/2013 to N.S. Reg. 16/2013**

Made: January 22, 2013

Filed: January 22, 2013

Pesticide Regulations, Used Oil Regulations and  
Environmental Emergency Regulations

Order in Council 2013-17 dated January 22, 2013  
Regulations and amendment to regulations made by the Governor in Council  
pursuant to Sections 74 and 84, subsection 122A(3), Section 136  
and clause 171(1)(e) of the *Environment Act*

The Governor in Council on the report and recommendation of the Minister of Environment dated December 4, 2012, and pursuant to Sections 74 and 84, subsection 122A(3), Section 136 and clause 171(1)(e) of Chapter 1 of the Acts of 1994-95, the *Environment Act*, is pleased, effective on and after January 22, 2013,

- (a) pursuant to Section 84 of Chapter 1 of the Acts of 1994-95, the *Environment Act*, to amend the *Pesticide Regulations*, N.S. Reg. 61/95, made by the Governor in Council by Order in Council 95-300 dated April 11, 1995, to make the regulations consistent with amendments to the Act made by Chapter 61 of the Acts of 2011, *An Act to Amend Chapter 1 of the Acts of 1994-95, the Environment Act*, in the manner set forth in Schedule “A” attached and forming part of the report and recommendation;
- (b) pursuant to Section 84 of Chapter 1 of the Acts of 1994-95, the *Environment Act*, to amend the *Used Oil Regulations*, N.S. Reg. 51/95, made by the Governor in Council by Order in Council 95-290 dated April 11, 1995, to make the regulations consistent with amendments to the Act made by Chapter 61 of the Acts of 2011, *An Act to Amend Chapter 1 of the Acts of 1994-95, the Environment Act*, in the manner set forth in Schedule “B” attached and forming part of the report and recommendation;
- (c) pursuant to Section 74, subsection 122A(3) and Sections 136 and 171 of Chapter 1 of the Acts of 1994-95, the *Environment Act*, to
  - (i) repeal the *Emergency Spill Regulations*, N.S. Reg. 59/95, made by the Governor in Council by Order in Council 95-298 dated April 11, 1995, and
  - (ii) make new regulations respecting environmental emergencies consistent with amendments to the Act made by Chapter 61 of the Acts of 2011, *An Act to Amend Chapter 1 of the Acts of 1994-95, the Environment Act*, in the form set forth in Schedule “C” attached to and forming part of the report and recommendation.

**N.S. Reg. 14/2013**

Pesticide Regulations

**Schedule “A”**

**Amendment to the *Pesticide Regulations*  
made by the Governor in Council under  
Section 84 of Chapter 1 of the Acts of 1994-95,  
the *Environment Act***

- 1 Clause 2(s) of the *Pesticide Regulations*, N.S. Reg. 61/95, made by the Governor in Council by Order in Council 95-300 dated April 11, 1995, is amended by striking out “and meets the requirements prescribed in these regulations”.

- 2 (1) Subsection 7(1) of the regulations is amended by striking out “Class I - Vendor’s Certificate” in clause (a) and substituting “Class I(A)–Commercial Vendor’s Certificate”.
- (2) Subsection 7(1) is further amended by adding the following clause immediately after clause (a):
  - (aa) Class I(B)–Domestic Vendor’s Certificate which authorizes the holder to sell, supply or distribute directly to a pesticide user pesticides that are designated by the federal regulatory authority as domestic-class pest control products;
- 3 Subsection 8(2) of the regulations is repealed and the following subsection substituted:
  - (2) Before being issued a certificate of qualification, an applicant shall complete an examination and achieve a minimum score of 75%.
- 4 (1) The heading immediately before Section 13 of the regulations is amended by striking out “notification” and substituting “notice”.
- (2) Subsection 13(1) of the regulations is amended by striking out “notification” and substituting “notice”.
- (3) Subsection 13(2) of the regulations is amended by striking out “gives public notification” and substituting “provides notice to the public”.
- (4) Clause 13(4)(c) of the regulations is amended by adding “public” immediately before “notice”.
- 5 Clause 22(2)(d) of the regulations is amended by striking out “Emergency Measures Organization” and substituting “Emergency Management Office”.
- 6 Subsection 23(2) of the regulations is repealed
- 7 Clause 29(1)(e) of the regulations is amended by striking out “Emergency Measures Organization” and substituting “Emergency Management Office”.

**N.S. Reg. 15/2013**

## Used Oil Regulations

**Schedule “B”**

**Amendment to the *Used Oil Regulations*  
made by the Governor in Council under  
Section 84 of Chapter 1 of the Acts of 1994-95,  
the *Environment Act***

- 1 The *Used Oil Regulations*, N.S. Reg. 51/95, made by the Governor in Council by Order in Council 95-290 dated April 11, 1995, are amended by striking out “, a directive of the Department” in subsection 9(2).
- 2 Subsection 12(4) of the regulations is amended by
  - (a) adding “and” at the end of clause (b);
  - (b) striking out “; and” at the end of clause (c) and substituting a period; and
  - (c) repealing clause (d).

- 3 (1) Clause 13(3)(a) of the regulations is amended by striking out “registers with” and substituting “notifies”.
- (2) Section 13 of the regulations is further amended by adding the following subsection immediately after subsection (3):
- (4) If before October 1, 2012, a person registered their use of crankcase oil in a used oil furnace with an Administrator, the person is deemed to have notified an Administrator under clause (3)(a).

**N.S. Reg. 16/2013**

## Environmental Emergency Regulations

**Schedule “C”**

**Regulations Respecting Environmental Emergencies,  
Reportable Releases and Unauthorized Releases  
made by the Governor in Council under  
Section 74, subsection 122A(3) and Sections 136 and 171  
of Chapter 1 of the Acts of 1994-95,  
the *Environment Act***

**Citation**

1 These regulations may be cited as the *Environmental Emergency Regulations*.

**Definitions**

2 In these regulations

“Act” means the *Environment Act*;

“Administrator” means a person appointed by the Minister under Section 3 to administer these regulations;

“environmental emergency” means an emergency situation in which there is a release or an impending release of a substance in such quantities that mitigation of the release is beyond the capability of the person responsible because the person responsible lacks the resources, is unknown, or is otherwise unwilling or unable to control and manage the release;

“environmental emergency area” means a property, habitat, land, watercourse or other area that is established by an inspector under Section 10 as an area that has been affected or is likely to be affected during an environmental emergency;

“remediate”, in relation to an area affected by a released substance, means to clean up the released substance in accordance with a standard or regulation, or as directed by an inspector;

“reportable release” means a release into the environment of a substance in an amount specified in Column 3 of Schedule A for that substance;

“unauthorized release” means a release of a substance into the environment that is any of the following:

- (i) prohibited by the Act or a regulation or standard made under the Act,

- (ii) in excess of an amount specified in an approval or by the Act or a regulation or standard made under the Act;
- (iii) a release described in subclause (i) or (ii) that is reasonably expected to occur in the foreseeable future.

### **Application of regulations**

- 3** (1) These regulations apply to a release of a substance or impending release of a substance into the environment, including all of the following:
- (a) an environmental emergency;
  - (b) a reportable release;
  - (c) an unauthorized release;
  - (d) a release of a substance or impending release of a substance into the environment on lands owned or claimed by Her Majesty in the right of Canada.
- (2) The notice and reporting requirements in Sections 6 to 8 do not apply to a release of a substance
- (a) in an amount that is permitted in an approval; or
  - (b) for which a reporting requirement is included in an approval for the release.
- (3) The notice and reporting requirements in Sections 6 to 8 do not eliminate the requirement to comply with a notice or reporting requirement in another enactment.

### **Administrator**

- 4** The Minister may appoint a person as Administrator to administer these regulations.

### **Qualifications for appointment as emergency responder**

- 5** A person who is not an employee of the Department and who meets all of the following qualifications may apply to the Minister to be appointed under subsection 21(2) of the Act as an inspector for environmental emergencies, to be known as an emergency responder:
- (a) the applicant is a member of either a fire or police service for a municipality within the Province;
  - (b) the applicant has successfully completed the requirements of a national emergency responders certification program;
  - (c) the municipality where the applicant is a member of a fire or police service is satisfied with the certification of the applicant and provides a written recommendation to the Minister for the applicant's appointment.

### **Duty to report unauthorized release or reportable release**

- 6** (1) A person with a duty to report under Section 69 of the Act must report an unauthorized release as soon as that person knows or ought to know of it.
- (2) A person responsible for a reportable release must report that release as soon as that person knows or ought to know of it.

**Verbal notice of unauthorized release or reportable release**

**7** A person who is reporting a release of a substance under Section 6 must verbally notify all of the following:

- (a) the Minister, through the Department's emergency telephone number;
- (b) if the person reporting is not the owner, the owner of the parcel of land where the release occurred;
- (c) any person who the person reporting knows or ought to know may be directly affected by the release, including the owner or occupant of any parcel of land to which the substance has migrated or is likely to migrate from the location of the release.

**Written report of unauthorized release or reportable release**

**8** In addition to the verbal notice required by Section 7, the Administrator or an inspector may demand in writing that a person required to report an unauthorized release or a reportable release under Section 6 submit, within the time period specified in the request, a written report to the Department that includes all of the following:

- (a) the name, address and telephone number of the owner of the property where the release occurred;
- (b) the name, address, telephone number and signature of the person who is submitting the report;
- (c) the location of the release, including the parcel identification number and civic address;
- (d) if any substance has migrated or is likely to migrate from the location of the release, a general description of the nature of the migration or likely migration of the substance;
- (e) the name, address, and telephone number of the owner of any parcel of land to which any substance has migrated or is likely to migrate from the location of the release, and the location, including the parcel identification number and civic address, of that parcel of land;
- (f) a general description of measures taken or to be taken to address the release;
- (g) the action taken to identify the cause of the release;
- (h) the action taken to prevent a recurrence of the release;
- (i) an assessment of the adequacy of the response to the release by a person or agency involved in the response;
- (j) the action taken or to be taken to dispose of the substance.

**Remedial measures**

**9** For the purpose of clause 71(b) of the Act, an inspector may issue a directive to a person under Section 122A of the Act requiring the person to take any or all of the following measures as necessary to prevent, reduce or remedy adverse effects after a release of a substance:

- (a) recognize an environmental emergency area;
- (b) restrict a person or persons from entering into an environmental emergency area;



- (c) restrict vehicle access into an environmental emergency area;
- (d) recognize an unsafe area established by an inspector;
- (e) construct works required to contain, control or manage the release;
- (f) any immediate action that the inspector considers necessary to contain, control or manage the release;
- (g) measures as directed by the inspector to remediate the area affected by the release.

### **Emergency measures**

**10** For the purpose of Section 72 of the Act, in an environmental emergency an inspector may take any or all of the following emergency measures as necessary to prevent, reduce or remedy the adverse effects of a release of a substance:

- (a) establish an environmental emergency area;
- (b) restrict a person or persons from entering into an environmental emergency area;
- (c) restrict vehicle access into an environmental emergency area;
- (d) establish an unsafe area;
- (e) construct works to contain, control or manage the release;
- (f) any immediate action that the inspector considers necessary to contain, control or manage the release;
- (g) any measures that the inspector considers necessary to remediate the area affected by the release.

### **Emergency orders**

- 11** (1) An emergency order under Section 128 of the Act may be made by an inspector, including an emergency responder, during or after an environmental emergency or unauthorized release.
- (2) An order referred to in subsection (1) may order a person to take any action authorized under Section 125 or 126 of the Act, including any or all of the following:
- (a) to take the action specified to dispose of the substance that has been released;
  - (b) to remediate the environment impacted by the release;
  - (c) to do all things identified as necessary to repair an injury or damage directly or indirectly caused by or resulting from the release.
- (3) An order referred to in subsection (1) must be confirmed as required by subsection 128(2) of the Act.
- (4) An inspector or the Administrator may determine when an environmental emergency has ended.
- (5) If a person ordered to take action under subsection (1) fails to comply with the order, the Minister may act under Section 132 of the Act.

**Recovering costs**

- 12 (1)** For the purpose of Section 169 of the Act, reasonable costs, expenses or other charges that are incurred by the Minister, the Administrator or an inspector in carrying out measures with respect to an environmental emergency or an unauthorized release and that are supported by proper receipts may be recovered by 1 of the following methods:
- (a) for a claim of less than or equal to \$5000, by issuing an order to pay against the person responsible for the need to take the measures;
  - (b) for a claim of greater than \$5000 ~~or greater~~, by taking an action in a court of competent jurisdiction against the person responsible for the need to take the measures.
- (2)** If the person against whom an order is issued under clause (1)(a) fails to pay, the Minister or the Administrator may file the order with the prothonotary of the Supreme Court and it has the same effect as an order filed under subsection 132(7) of the Act.

**Schedule A**  
**Reportable Release of Substance Amounts**

	Column 1	Column 2	Column 3
	<b>TDGA Class*</b>	<b>Description of Substance</b>	<b>Reportable Release Amount</b>
1	All Class 1	explosive	any amount
2	2.1	compressed gas (flammable)	100 L or more
3	2.2	compressed gas (non-corrosive, non-flammable)	100L or more
4	2.3	compressed gas (toxic)	any amount
5	3	flammable liquid	100 L or more
6	4.1	flammable solid	25 kg or more
7	4.2	spontaneously combustible solid	25 kg or more
8	4.3	water reactant solid	25 kg or more
9	5.1	oxidizing substance	50 L or more -or- 50 kg or more
10	5.2	organic peroxide	1 L or more -or- 1 kg or more
11	6.1	poisonous substance	5 L or more -or- 5 kg or more
12	6.2	infectious substance	any amount
13	7	radioactive substance	any amount

14	8	corrosive substance	5 L or more –or– 5 kg or more
15	9 (in part)	miscellaneous product or substance, excluding PCB mixtures and environmentally hazardous substances	25 L or more –or– 25 kg or more
16	9 (in part)	PCB mixture of 50 or more parts per million	0.5 L or more –or– 0.5 kg or more
17	9 (in part)	environmentally hazardous substance	1 L or more –or– 1 kg or more
18	n/a	asbestos waste as defined in the <i>Asbestos Waste Management Regulations</i> made under the Act	50 kg or more
19	n/a	used oil as defined in the <i>Used Oil Regulations</i> made under the Act	100 L or more
20	n/a	contaminated used oil as defined in the <i>Used Oil Regulations</i> made under the Act	5 L or more
21	n/a	pesticide in concentrated form	5 L or more –or– 5 kg or more
22	n/a	pesticide in diluted form	70 L or more
23	n/a	unauthorized sewage discharge into fresh water or sensitive marine water	100 L or more
24	n/a	ozone-depleting substance as defined in the <i>Ozone Layer Protection Regulations</i> made under the Act	25 kg or more

(\*“TDGA Class”, in relation to a substance, refers to the class of that substance as listed in the Schedule to the *Transportation of Dangerous Goods Act* (Canada).)

### N.S. Reg. 17/2013

Made: January 22, 2013

Filed: January 22, 2013

Approval and Notification Procedures Regulations

Order in Council 2013-18 dated January 22, 2013  
Regulations made by the Governor in Council  
pursuant to Section 66 of the *Environment Act*

The Governor in Council on the report and recommendation of the Minister of Environment dated December 4, 2012, and pursuant to Section 66 of Chapter 1 of the Acts of 1994-95, the *Environment Act*, is pleased, effective on and after January 22, 2013, to

- (a) repeal the *Approvals Procedure Regulations*, N.S. Reg. 48/95, made by the Governor in Council by Order in Council 95-287 dated April 11, 1995; and
- (b) make new regulations respecting approval and notification procedures consistent with amendments to the *Environment Act* made by Chapter 61 of the Acts of 2011, *An Act to Amend [Chapter 1 of the Acts of 1994-95,] the Environment Act*, in the form set forth in Schedule “A” attached to and forming part of the report and recommendation.

### Schedule “A”

#### Regulations Respecting Approval and Notification Procedures made by the Governor in Council under Section 66 of Chapter 1 of the Acts of 1994-95, the *Environment Act*

#### Citation

1 These regulations may be cited as the *Approval and Notification Procedures Regulations*.

#### Definitions

2 In these regulations,

“Act” means the *Environment Act*;

“activity” means an activity listed in the *Activities Designation Regulations*;

“*Activities Designation Regulations*” means the *Activities Designation Regulations* made under the Act;

“Administrator” means an administrator who has been designated by the Minister as the person responsible for the activity to which the application or notification relates;

“application” means an application

- (i) for a class of approval,
- (ii) to make a change to an activity that is the subject of an existing approval,
- (iii) to amend a term or condition of, add a term or condition to or delete a term or condition from an approval,
- (iv) to renew an approval,
- (v) to change the class of an approval,
- (vi) to transfer an approval,
- (vii) for an approval for an activity that is being carried on under a notification;

“class”, in relation to an approval, means a class of approval set out in Section 3 and as designated in the *Activities Designation Regulations* or another regulation;

“completed application” means an application, including additional information submitted under subsection 53(2) of the Act, that contains all the information necessary to enable the Minister to begin a detailed review of the application;

“compliance audit” means an audit under Section 26 conducted by an inspector for the purpose of determining if an activity being carried out under a notification is in compliance with the Act, a regulation or a standard;

“confidential business information” includes a trade secret and know-how, but does not include information about the environmental effects of or associated mitigation measures for a proposed activity;

“fee” means a fee established by the Minister in the *Fees Regulations* made under clause 8(2)(k) of the Act;

“notification receipt” means a receipt issued by the Minister to a notifier under Section 25;

“notifier” means a person who submits a notification;

“regulation” means a regulation made under the Act, unless the context otherwise requires;

“security” means any financial or other security required by the *Activities Designation Regulations* or another regulation for an activity for which an approval is required, to be provided by the applicant as required by Section 65A of the Act and in the manner specified in these regulations;

“site” means the lands where an activity or proposed activity will take place, identified

- (i) in relation to an approval, in the manner described in clause 6(1)(e) or subsection 16(2), or
- (ii) in relation to a notification, in the manner described in clause 24(3)(b);

“trade secret” means a trade secret as defined in the *Freedom of Information and Protection of Privacy Act*.

## Approvals

### Classes of approval

3 (1) The classes of approval are as follows:

- (a) Type A approval;
  - (b) Type B approval.
- (2) A Type A approval is required for a designated activity unless the activity is designated in the *Activities Designation Regulations* for a Type B approval or for notification.
- (3) A person may apply for a Type A approval for an activity that has been designated for a Type B approval or for notification.

### Application form

4 (1) An application must be made on the form approved by the Minister for the class of approval that is sought.

- (2) An application must be made and signed by
  - (a) a person who is an authorized signatory of the applicant, in the case of an application referred to in subclause 2(i) or (vii) [in the definition of “application”];
  - (b) the approval holder, in the case of an application referred to in subclause 2(ii), (iii), (iv), (v) or (vi) [in the definition of “application”]; or
  - (c) by an agent of a person identified in clause (a) or (b) who produces proof of authorization to make the application.

### **Confidential business information**

- 5 (1) In this Section, “claim” means an applicant’s claim under subsection (4) that information provided by the applicant is to be protected under the *Freedom of Information and Protection of Privacy Act*.
- (2) This Section is subject to the *Freedom of Information and Protection of Privacy Act* and regulations made under that Act.
  - (3) All information filed with the Department in support of an application, including information filed under Part V of the Act, is public information.
  - (4) Information that an applicant claims to be protected under the *Freedom of Information and Protection of Privacy Act* as confidential business information, must be clearly identified to the Administrator.
  - (5) If an applicant claims information to be confidential business information, the Administrator must review the claim and, until a decision is made under subsection (7), must take adequate precautions to prevent disclosure of the information.
  - (6) When reviewing a claim, the Administrator may request additional information to support the claim, including what steps the applicant has taken to maintain the confidentiality of the information.
  - (7) Within 14 days following the date of receipt of a claim or within any other time period agreed to by the applicant and the Administrator, the Administrator must advise the applicant in writing whether the claim is accepted or rejected in whole or in part.
  - (8) An appeal from a decision under subsection (7) is to the Minister.
  - (9) Information accepted to be confidential business information under subsection (7) must not be disclosed to the public and the Administrator must take adequate precautions to prevent the disclosure of the information.
  - (10) If the Administrator rejects a claim, the applicant must notify the Administrator in writing that
    - (a) the claim is waived and the applicant wishes to continue to proceed with the application; or
    - (b) the application is to be withdrawn, in which case the Administrator must immediately return to the applicant all of the information submitted with the application.

### **Approval application information**

- 6 (1) Unless specified otherwise on the application form for the class of approval sought or by the Minister under subsection (2), an application must be accompanied by all of the following information:

- (a) the name, address, e-mail address, telephone and fax number of the applicant and, if applicable, proof of current registration with the Registrar of Joint Stock Companies;
- (b) the location of the site and the capacity and size of the activity to which the application relates;
- (c) the nature of the activity, the change to the activity or the amendment, addition or deletion of a term or condition, as the case may be;
- (d) proof that the applicant
  - (i) owns the site,
  - (ii) has a lease or other written agreement or option with the landowner or occupier to enable the applicant to carry out the activity on the site, or
  - (iii) has the legal right or ability to carry out the activity without the consent of the landowner or occupier;
- (e) a plan or sketch of the site or, if the Minister considers it necessary, a survey plan prepared by a registered Nova Scotia land surveyor;
- (f) if required by the Minister under subsection 53(4) of the Act, any municipal approval, permit or other authorization referred to in that subsection;
- (g) detailed plans and specifications that, if required by the Minister, are stamped by a professional engineer licensed to practise in Nova Scotia;
- (h) a detailed description of the activity to which the application relates;
- (i) details of site suitability and sensitivity, including proximity to watercourses, residences and institutions, geology and hydrogeology;
- (j) copies of existing approvals relating to the activity that have been issued to the applicant under the Act or a predecessor to the Act;
- (k) copies of any environmental assessment study reports that may pertain to the activity;
- (l) the proposed or actual dates of the commencement of construction, completion of construction, commencement of operation and completion of the project;
- (m) a description of any substance that will or might be released into the environment as a result of the activity, including all of the following:
  - (i) the source of the substance,
  - (ii) the amount of the substance,
  - (iii) the environmental impact of a release of the substance,
  - (iv) the method by which the substance will be released,

- (v) the measures to be taken to reduce the amount of the substance released or to mitigate its impacts;
  - (n) a summary of the required environmental monitoring information not already submitted to the Department that was gathered during any previous approval period or while the activity was regulated by a notification;
  - (o) a summary of the performance of substance release control systems used for the activity and not already submitted to the Department, including performance during any previous approval period or while the activity was regulated by a notification;
  - (p) an explanation for the release of substances into the environment as a result of the activity;
  - (q) proof that security, if required, will be provided;
  - (r) a description of any adverse effect, including surface disturbance, that may or will result from the activity and how it will be controlled;
  - (s) contingency plans to deal with any reasonably foreseeable sudden or gradual release of a substance that is likely to have an adverse effect;
  - (t) a preliminary abandonment or rehabilitation plan and, if required, a final abandonment or rehabilitation plan;
  - (u) a description of any public consultation undertaken or proposed by the applicant;
  - (v) information required to be submitted as part of or in support of the application under a regulation or standard;
  - (w) any additional information required by the Minister in a policy or guideline for the type of activity covered by the notification.
- (2) The Minister may waive in writing any of the requirements of subsection (1) if the Minister is satisfied that a requirement is not relevant to a particular application or that the application is an application for a renewal.

### **Information to complete application**

- 7 (1) If an application is not complete, the Department must notify the applicant in writing and request the information necessary to make the application complete.
- (2) An applicant who disputes a decision that their application is incomplete may appeal the decision to the Minister.
- (3) If information is not supplied by an applicant within 3 months of a request under subsection (1), the Minister may reject the application and must immediately advise the applicant in writing that the application has been rejected.
- (4) An applicant may request from the Minister an extension of the 3-month time limit prescribed in subsection (3).

### **Request for additional information during review**

- 8 (1) During the review of an application, the Minister may request oral information or additional written information from any of the following:



- (a) an applicant or an agent of the applicant;
  - (b) a person who is directly affected by the application;
  - (c) a local authority, the Government, a Government agency or the Government of Canada or any agency or department of the Government of Canada;
  - (d) any other source that the Minister considers appropriate.
- (2) An applicant must be given an opportunity to respond to information received from a source referred to in clause (1)(b), (c) or (d).
- (3) Before approving an application, the Minister may require that the applicant provide a consultative process in the area where the activity or the proposed activity is or may be located.
- (4) Subsection (3) does not apply if an application has been processed under Part IV of the Act.

### **Purpose and scope of review**

- 9 (1) In reviewing an application, the Minister must determine whether the impact of the activity on the environment conforms with the Act and applicable regulations and standards.
- (2) In reviewing an application, the Minister may also consider whether the activity is consistent with established Departmental policies, programs, guidelines, objectives or approval processes.
- (3) A review may include, but is not limited to, the following matters:
- (a) proposed methods of reducing the generation, use and release of substances;
  - (b) available alternative technologies;
  - (c) design plans and specifications for the activity;
  - (d) site suitability, including soils, air and water quality, groundwater conditions, site drainage, water supply quantity and wastewater disposal alternatives;
  - (e) the proposed monitoring programs to measure emissions and their effect on the environment;
  - (f) proposed methods of managing the storage, treatment and disposal of substances;
  - (g) proposed plans to complete the rehabilitation required in connection with the activity and available information about the success or failure of similar plans elsewhere;
  - (h) the past performance of the applicant in providing for environmental protection with respect to the activity.

### **Issuance of approval**

- 10 (1) The Minister may issue an approval on payment of the administrative fee and user fee for the class of approval issued.
- (2) If the Minister refuses to issue an approval or the class of approval sought, the Minister must advise the applicant in writing of the decision and inform the applicant about what appeal processes are available.

- (3) If there is a change in the name of an approval holder, the approval holder must advise the Department in writing within 30 days of the change.

#### **Duration and renewal of approval**

- 11 (1) Unless provided otherwise under subsection 58(3) of the Act or a regulation, on issuing or renewing an approval, the Minister must not permit the duration of the approval to exceed 10 years.
- (2) An applicant may request an approval with a shorter duration than the 10-year maximum period permitted by subsection (1).
- (3) The Minister may renew an approval, with or without changes, on application and payment of the administrative fee and the user fee for the class of approval being renewed.

#### **Approval transfers**

- 12 (1) A sale of a controlling interest in a business or a transfer of an approval from a parent company to a subsidiary or an affiliate is deemed to be a transfer requiring consent under subsection 59(1) of the Act.
- (2) If security is required for an activity, the Minister must not approve a transfer, sale, lease, assignment or other disposition of an approval for the activity until the Minister is satisfied that good and valuable security has been provided by the new owner or operator.

#### **Providing and maintaining security**

- 13 (1) If security is required for an activity, the Minister must not issue an approval for the activity until the Minister is satisfied that good and valuable security has been provided.
- (2) An approval holder must ensure that any security provided is kept in effect
  - (a) for the term of the approval and the time period provided in subsection 20(4) if the site is abandoned; or
  - (b) for any other term as required in the *Activity Designation Regulations* or another regulation that establishes the requirement for the security.
- (3) An approval holder who is required to provide security must provide evidence to the Minister at least 60 days before the expiry date of the security that the security has been renewed.

#### **Amount of security**

- 14 (1) Security provided for an activity must be in an amount determined by the Minister to be sufficient to ensure completion of rehabilitation of the site based on all of the following:
  - (a) the estimated costs of rehabilitation submitted by the approval holder;
  - (b) the nature, complexity and extent of the activity;
  - (c) the probable difficulty of rehabilitation, considering factors such as topography, soils, geology, hydrology and re-vegetation;
  - (d) any additional factors that the Minister considers to be relevant.
- (2) An approval holder must provide detailed information in support of their estimate of the costs of rehabilitation.

**Apportioning security**

**15** The Minister may designate portions of a site on which an activity is or will be taking place and determine the amount of security to be provided by the approval holder for each portion so designated.

**Adjusting amount of security**

- 16 (1)** The Minister may periodically review the amount of security required from an approval holder, and in any of the following circumstances may either increase or decrease the amount of security required:
- (a) the estimated cost of future rehabilitation changes;
  - (b) the work on the site within the scope of the approval is increased or reduced;
  - (c) the site or any portion of it is rehabilitated;
  - (d) a rehabilitation plan in an approval is changed;
  - (e) the approval holder is conducting more than 1 activity for which security is required on the site;
  - (f) any other circumstance that may increase or decrease the estimated cost of rehabilitation.
- (2)** To complete a review under subsection (1), the Minister may require the approval holder to supply updated engineering drawings that show such matters as the extent of progressive rehabilitation and the areas of disturbance.
- (3)** The Minister may specify times or establish a schedule for re-evaluating and adjusting security provided by an approval holder.
- (4)** No later than 7 days after deciding to increase or decrease the amount of security required from an approval holder, the Minister must notify the approval holder in writing of the proposed adjustment and, if the amount of security required is increased, the approval holder must immediately post the required additional security with the Department.

**Form of security**

- 17 (1)** Security must be in 1 or more of the following forms:
- (a) cash;
  - (b) cheques or other similar negotiable instruments made payable to the Nova Scotia Department of Finance;
  - (c) Government-guaranteed bonds, debentures, term deposits, certificates of deposit, trust certificates or investment certificates assigned to the Nova Scotia Department of Finance;
  - (d) irrevocable letters of credit, irrevocable letters of guarantee, performance bonds or surety bonds in a form acceptable to the Minister;
  - (e) any other form of security that provides good and valuable consideration and that is approved in writing by the Minister.
- (2)** Any interest that accrues on any security deposited with the Department by an approval holder must be paid to the approval holder.

**Returning security**

- 18** (1) If the Minister is satisfied that rehabilitation has been performed satisfactorily on all or part of a site, the Minister may return or direct the return of all or part of the security provided by the approval holder.
- (2) If rehabilitation of a site has been partially completed, the Minister may, on application by the approval holder, return or direct the return of a portion of the security in an amount determined by the Minister.
- (3) No later than 7 days after deciding under Section 16 to decrease the amount of security required from an approval holder, the Minister must return or direct the return of a portion of the security provided by the approval holder together with any interest that has accrued on the security.
- (4) No later than 7 days after refusing an application for an approval, the Minister must return or direct the return of any security that the applicant deposited with the Department.
- (5) On the sale, transfer or other disposition of a site covered by security and on consent being granted under Section 59 of the Act, the Minister must, on application by the approval holder, return the security to the approval holder if an approval is granted to the new owner or operator and security approved by the Minister is provided by the new owner or operator.

**Forfeiting security**

- 19** (1) The Minister may order that all or part of the security provided by an approval holder be forfeited if any of the following occur[s]:
- (a) a person fails to comply with an approved abandonment plan, a rehabilitation plan or an order from the Minister regarding rehabilitation of the site and the failure to comply may, in the opinion of the Minister, prevent or otherwise interfere with rehabilitation of the site;
- (b) a person fails to provide evidence that the security has been renewed in accordance with subsection 13(3) and rehabilitation is not complete.
- (2) If the Minister orders security to be forfeited, the Minister must give written notice of the decision to the approval holder by fax or mail sent to the most recent known address of the approval holder.
- (3) The Minister may spend as much of the forfeited security as is reasonably necessary to carry out the rehabilitation of the site and other lands on which the activity has an impact and must keep records of any money spent.
- (4) If the amount of the forfeited security exceeds the amount required for rehabilitation, the Minister must pay the excess amount to the approval holder.
- (5) If the amount of the forfeited security is insufficient to pay for the cost of rehabilitation, the approval holder remains liable for the balance of the cost.

**Abandoning site**

- 20** (1) An approval holder may abandon all or part of a site covered by an approval by providing written notice to the Minister at least 60 days before the date of the proposed abandonment.
- (2) Unless the Minister approves otherwise in writing, an abandonment does not relieve the approval holder or other person responsible of any obligation to comply with a requirement
- (a) contained in the Act or a regulation, standard or order made under the Act;

- (b) contained in an approval; or
  - (c) otherwise directed by the Minister to be met by the approval holder or other person.
- (3) Unless exempted in writing by the Minister, an approval holder must comply with an obligation identified in subsection (2) for a period of 2 years from the date of abandonment or for any longer or shorter time period specified in writing by the Minister.
- (4) Unless exempted in writing by the Minister, the approval holder must ensure that any security provided for an activity on a site that is subsequently abandoned is kept in effect for the time period referred to in subsection (3).

### **Rehabilitating site**

- 21 (1) An approval holder must rehabilitate the site to the satisfaction of the Minister and in accordance with all of the following:
- (a) the approval;
  - (b) the Act;
  - (c) an applicable rehabilitation method, if established by a regulation, or an approved rehabilitation plan.
- (2) An approval holder must submit a rehabilitation plan to the Minister for approval at least 60 days before abandoning the site, unless an applicable rehabilitation method has already been established by a regulation.
- (3) At the Minister's request, an approval holder must submit a final rehabilitation plan to the Minister to replace any initial or conceptual rehabilitation plan that the approval holder previously submitted.
- (4) No later than 14 days after the date a rehabilitation plan is submitted to the Minister, the Minister must notify the approval holder of whether the plan is approved or not.
- (5) The Minister may issue a rehabilitation certificate to an approval holder if the Minister is of the opinion that rehabilitation of the site has been satisfactorily completed.

### **Notifications**

#### **Limits on use of notification**

- 22 (1) A person must not provide a notification for an activity other than an activity designated as requiring a notification.
- (2) A person must not commence an activity that is designated as requiring a notification before obtaining a notification receipt.
- (3) A person who is carrying out an activity that is designated as requiring a notification must have a copy of a notification receipt for the activity on the site at all times when the activity is being carried out and must produce the notification receipt on demand by an inspector.
- (4) An activity carried on under a notification may be commenced or continued only during the time period indicated on the notification receipt for that activity.
- (5) The time period indicated on the notification receipt for carrying out the activity must not exceed 10 years in duration.

- (6) A notifier who intends to continue an activity beyond the time period indicated on the notification receipt for the activity must renew the notification by submitting a notification form and paying the applicable fee in accordance with Section 24, and must obtain a new notification receipt.
- (7) If an activity is to be changed substantially from way it is described in the information that was submitted with the notification for the activity, the notifier must, before making the change, provide a new notification to the Department and obtain a new notification receipt.
- (8) If the requirements of a regulation, including a standard, for carrying on an activity under a notification cannot be met or are not being met, a person who intends to carry out or has been carrying out the activity must obtain a Type A approval before commencing or continuing the activity.
- (9) If a person carrying out an activity under a notification does not have the notification receipt for the activity on-site or produce it at the request of an inspector as required by subsection (2), the notification is deemed to be cancelled.
- (10) A person must not carry on an activity covered by a notification
  - (a) once the Minister has given written notice of the cancellation of the notification under subsection 27(2); or
  - (b) once the notification is deemed to be cancelled under subsection (8).

**Who may be notifier**

**23** Subject to any further limitation set out in the *Activities Designation Regulations* on who may provide a notification for a designated activity, a notification must be made by 1 of the following:

- (a) the person with primary responsibility for the designated activity to be carried out;
- (b) the owner of the property where the designated activity is to be carried out;
- (c) an agent of a person identified in clause (a) or (b) who produces proof of their authorization to make the notification;
- (d) a person who is a member of a class of persons established by a regulation, including a standard, as able to provide a notification for the designated activity to be carried out.

**Submitting notification**

**24 (1)** A notification must be submitted to the Department, together with the applicable fee, so that it is received by the Department at least 5 days before the occurrence of any of the following:

- (a) the date on which the notifier wishes to commence the activity under the notification;
  - (b) if renewing a notification, the expiry of the time period specified in the existing notification receipt;
  - (c) the date on which the notifier wishes to implement a change to an activity that is being carried out under a notification and is to be changed substantially.
- (2) A notification must be made on the notification form approved by the Minister.

- (3) Unless specified otherwise on the notification form or by the Minister under subsection (4), a notification must include all of the following information:
- (a) the name, address, e-mail address, telephone and fax number of the notifier and, if applicable, proof of current registration with the Registrar of Joint Stock Companies;
  - (b) the location of the site and the capacity and size of the activity to be carried out under the notification;
  - (c) the nature of the activity, or the substantive change to the activity, as the case may be;
  - (d) proof that the notifier
    - (i) owns the site,
    - (ii) has a lease or other written agreement or option with the landowner or occupier to enable the notifier to carry out the activity on the site, or
    - (iii) has the legal right or ability to carry out the activity without the consent of the landowner or occupier;
  - (e) the proposed or actual dates of the commencement of construction, completion of construction, commencement of operation and completion of the project, or the new dates in the case of a notification under subsection 22(6);
  - (f) confirmation that the activity is an activity designated as requiring a notification;
  - (g) a sworn statement of intent signed by the notifier that the notifier knows and understands the regulations, including standards, that apply to the activity to which the notification relates and that the notifier will carry out the activity in compliance with the Act and the applicable regulations, including standards;
  - (h) any additional information required by the Minister in a standard, policy or guideline.
- (4) The Minister may waive in writing any of the requirements of subsection (3)
- (a) if the Minister is satisfied that the requirement is not relevant to a particular notification or type of activity; or
  - (b) for a notification that is submitted under subsection 22(6) to continue an activity.
- (5) For a notification that is submitted under subsection 22(6), the notifier must document any changes that have happened since the initial notification was submitted.

#### **Issuing notification receipt**

**25** Unless the notification is cancelled under Section 27, the Department must provide a notification receipt to a notifier who submits a notification in accordance with Section 24.

#### **Compliance audits**

**26 (1)** Before, while or after carrying out an activity under a notification, the notifier must furnish all information about the activity that is requested by an inspector under Section 118 of the Act to the inspector for a compliance audit, which may include any of the following:

- (a) a plan or sketch of the site or, if the inspector considers it necessary, a survey plan prepared by a registered Nova Scotia land surveyor;
  - (b) any municipal approval, permit or other authorization required for the activity;
  - (c) detailed plans and specifications for the activity that, if required by the inspector, are stamped by a professional engineer licensed to practise in Nova Scotia;
  - (d) a detailed description of the activity to which the notification relates;
  - (e) details of site suitability and sensitivity, including proximity to watercourses, residences and institutions, geology, hydrogeology and water source;
  - (f) a description of any substance that will or might be released into the environment as a result of the activity, including all of the following:
    - (i) the source of the substance,
    - (ii) the amount of the substance,
    - (iii) the environmental impact of a release of the substance,
    - (iv) the method by which the substance will be released,
    - (v) the measures to be taken to reduce the amount of the substance released or to mitigate its impacts;
  - (g) mitigation measures in place for a chemical or bacteria concentration in excess of the permitted level;
  - (h) information about the activity that is required to be submitted under any other regulation;
  - (i) if the *Activity Designation Regulations* or another regulation requires that notification for the activity be provided by a member of a prescribed class of persons, proof of membership in that class of persons;
  - (j) any information that the notifier is required to keep under a standard, policy or guideline of the Minister for the type of activity covered by the notification.
- (2) If required to do so by an inspector, a notifier must provide the Department with notice as soon as an activity under a notification is completed.
- (3) If an inspector makes an oral request under this Section, a written request must also be provided as soon as practical.

**Cancelled notification**

27 (1) A notification is cancelled in any of the following circumstances:

- (a) the notifier fails to comply with a request for information by an inspector who is carrying out a compliance audit under Section 26;
- (b) the notifier fails to comply with the Act, a regulation or a standard;



- (c) the Minister is satisfied that an adverse effect may occur as a result of the continuation of the activity covered by the notification;
  - (d) the Minister is satisfied that the activity covered by the notification requires an approval rather than a notification.
- (2) The Minister must give written notice to a notifier whose notification is cancelled under subsection (1), stating
- (a) if a notification receipt has not been issued, that the notification is cancelled and no notification receipt will be issued; or
  - (b) if a notification receipt has been issued, that the notification and the notification receipt are cancelled and permission to carry out the activity covered by the notification is withdrawn.

### Compliance Monitoring and Service Costs

#### Compliance monitoring

- 28 (1) Unless the Minister provides a waiver in writing, an approval holder, notifier or other person responsible for the activity must undertake compliance monitoring as required in the approval or by the Act or a regulation or standard, as applicable.
- (2) An approval holder, notifier or other person responsible for compliance monitoring must submit the results of the compliance monitoring to the Department at the times specified by the Minister or as required by a regulation or standard.
- (3) A person responsible for compliance monitoring must report a release of a substance into the environment that exceeds what is authorized by the approval or permitted under the notification, as applicable, in the manner required by the Act or a regulation or standard.
- (4) An approval holder or notifier is responsible for paying the costs of any required compliance monitoring.

#### Costs for sampling and other services

- 29 The cost of any sampling, analysis or other service required in an approval or for an activity being carried on under a notification must be paid by the approval holder or notifier, as applicable.

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#### N.S. Reg. 18/2013 to 19/2013

Made: January 22, 2013

Filed: January 22, 2013

Environmental Assessment Regulations and  
Environmental Assessment Review Panel Regulations

Order in Council 2013-19 dated January 22, 2013  
Amendment to regulations and regulations made by the Governor in Council  
pursuant to Section 49 of the *Environment Act*

The Governor in Council on the report and recommendation of the Minister of Environment dated December 4, 2012, and pursuant to Section 49 of Chapter 1 of the Acts of 1994-95, the *Environment Act*, is pleased, effective on and after January 22, 2013, to:

- (a) amend the *Environmental Assessment Regulations*, N.S. Reg. 26/95, made by the Governor in Council by Order in Council 95-220 dated March 21, 1995, to reflect changes to the Act that result in the replacement of the Nova Scotia Environmental Assessment Board in the manner set forth in Schedule “A” attached to and forming part of the report and recommendation;
- (b) repeal the *Nova Scotia Environmental Assessment Board Regulations*, N.S. Reg. 27/95, made by the Governor in Council by Order in Council 95-221 dated March 21, 1995; and
- (c) make new regulations respecting environmental assessment review panels in the form set forth in Schedule “B” attached to and forming part of the report and recommendation.

**N.S. Reg. 18/2013**

## Environmental Assessment Regulations

**Schedule “A”**

**Amendment to the *Environmental Assessment Regulations*  
made by the Governor in Council under  
Section 49 of Chapter 1 of the Acts of 1994-1995,  
the *Environment Act***

- 1 The *Environmental Assessment Regulations*, N.S. Reg. 26/95, made by the Governor in Council by Order in Council 95-220 dated March 21, 1995, are amended by striking out “the Board” everywhere it appears and substituting “a review panel”.
- 2 Subsection 23(3) of the regulations is amended by striking out “*Environmental Assessment Board Regulations*” and substituting “*Environmental Assessment Review Panel Regulations*”.

**N.S. Reg. 19/2013**

## Environmental Assessment Review Panel Regulations

**Schedule “B”**

**Regulations Respecting an Environmental Assessment Review Panel  
made by the Governor in Council under  
Section 49 of Chapter 1 of the Acts of 1994-95,  
the *Environment Act***

**Citation**

- 1 These regulations may be cited as the *Environmental Assessment Review Panel Regulations*.

**Definitions**

- 2 In these regulations,

“Act” means the *Environment Act*;

“Administrator” means a person appointed by the Minister under the Act to carry out the responsibilities set out in Section 3, and includes an acting Administrator;

“Chair” means the person designated by the Minister to be the chair of a review panel;

“confidential business information” includes a trade secret and know-how, but does not include information about the environmental effects of or associated mitigation measures for a proposed undertaking;

“*Environmental Assessment Regulations*” means the *Environmental Assessment Regulations* made under the Act;

“formal presentation” means a written submission by an intervenor to a review panel, and includes any oral summary given by the intervenor at the hearing;

“hearing” means a public hearing or review conducted by a review panel under subsection 44(1) of the Act;

“informal presentation” means an oral presentation by an intervenor to a review panel;

“intervenor” means a person who has requested a time period to make a presentation at a hearing in accordance with Section 10;

“public record” includes all of the following:

- (i) any correspondence, document, submission, transcript or exhibit filed with a review panel, excluding confidential business information,
- (ii) a report prepared under the *Environmental Assessment Regulations*,
- (iii) a report prepared by a review panel under Section 39 of the Act,
- (iv) a decision made by the Minister under Section 40 of the Act following receipt of a report referred to in subclause (iii);

“trade secret” means a trade secret as defined in the *Freedom of Information and Protection of Privacy Act*.

### **Administrator’s responsibilities**

**3** The Administrator is responsible for all of the following:

- (a) administering and directing the operations of a review panel;
- (b) organizing all activities of a review panel, including maintaining a file containing all correspondence, documents and submissions respecting an undertaking after an environmental-assessment report is referred to a review panel;
- (c) except as prohibited by law, making copies available to anyone of material in the file referred to in clause (b);
- (d) receiving and responding to inquiries concerning the hearing process;
- (e) supervising a hearing;
- (f) performing any functions that are assigned by the Minister or the Governor in Council.

### **Review panel**

**4 (1)** A review panel must have at least 3 members.

- (2) A majority of a review panel constitutes a quorum.
- (3) If a review panel member is temporarily absent or unable to attend a hearing, the member or members remaining present may
  - (a) exercise and perform all the jurisdiction, powers and duties of the review panel; or
  - (b) temporarily adjourn the hearing.
- (4) The Minister may remunerate review panel members and reimburse them for reasonable expenses.

**Public consultation**

- 5 (1) The Administrator must publish notice of a referral of an environmental-assessment report to a review panel under clause 38(1)(b) or (c) of the Act in the manner provided in Section 29 of the *Environmental Assessment Regulations* and invite the public to provide written comments to the Administrator within the 48 days following the date the notice is published.
- (2) The Minister may extend the period set out in subsection (1) for the public to provide written comments and must provide the proponent with written notice of any extension.

**Hearing locations**

- 6 (1) A review panel may hold sessions of a hearing in various locations in the Province depending on the nature of the undertaking.
- (2) At least 1 session of a hearing must be held in the village, town or city located nearest to the site of the proposed undertaking, if in the opinion of the Chair it is practical to do so.
- (3) If sessions of a hearing are held in various locations, the Chair may, to prevent undue repetition of evidence, decide that the official transcript of the oral evidence presented in a session held at one location is considered part of the evidence in a subsequent session held at a different location.

**Notice of hearing**

- 7 (1) The Administrator must sign a notice of hearing no later than 14 days after the date an environmental-assessment report is referred to a review panel under clause 38(1)(b) or (c) of the Act.
- (2) A notice of hearing must be in the form approved by the Administrator and must include the time, place and purpose or subject of the hearing.
- (3) A notice of hearing must be published twice in accordance with the following deadlines:
  - (a) unless directed otherwise by the Chair, the 1st publication of the notice of hearing must occur no later than 21 days before the date the hearing is to begin;
  - (b) the 2nd publication of the notice of hearing must occur no later than 14 days before the date the hearing is to begin.
- (4) The 1st and 2nd publication of a notice of hearing must each be published in the manner provided in Section 29 of the *Environmental Assessment Regulations*, except that the publication need only appear once in the Royal Gazette.
- (5) In addition to publishing it as required by subsection (4), the Administrator may post a notice of hearing in a public building located near the site of the proposed undertaking.

- (6) The Administrator may serve a notice of hearing on any person, body or organization by ordinary mail and may invite any person, body or organization to make a presentation at the hearing.
- (7) The Chair may accept an affidavit of the Administrator setting forth how and when service was effected as evidence that a notice of hearing was served.

**On-site visit or inspection**

- 8** (1) A review panel may request that a proponent whose undertaking is under review meet with the review panel 1 or more times before the hearing begins, to allow the review panel to visit or inspect the site of the undertaking.
- (2) The Administrator must record in writing any visit or inspection under subsection (1), including the date and time of the visit or inspection and the identity of the persons in attendance.

**Pre-session conference**

- 9** (1) The Administrator and the Chair may conduct a pre-session conference before a hearing begins.
- (2) A pre-session conference may include an explanation of the rules of procedure for the hearing, identification of the participants and witnesses, definition of the issues, estimation of the length of the hearing, and any additional matter that the Chair considers appropriate.
- (3) Notice of a pre-session conference must be in the form determined by the Administrator and the Chair and, if practical, must be given no later than 3 days before the date of the pre-session conference.
- (4) The Administrator and the Chair may determine which participants are to be given notice to attend a pre-session conference.

**Intervenors**

- 10** (1) Any person who has an interest in or is affected by the subject matter of a hearing may be an intervenor at the hearing.
- (2) A person who wishes to be an intervenor must contact the Administrator no later than 14 days before the date the hearing is to begin to request a time period to appear personally or by counsel at the hearing.
- (3) An intervenor must, if possible, make a formal presentation.
- (4) An intervenor must advise the Administrator whether the intervenor intends to make a formal presentation or an informal presentation.
- (5) An intervenor's written submission must be delivered to the Administrator no later than 10 days before the date the hearing is to begin.
- (6) The Chair may direct that a copy of an intervenor's written submission be delivered to any additional person who has an interest in or is affected by the subject matter of the hearing.

**Submitting written material to review panel**

- 11** (1) A person other than an intervenor who wishes to submit written material, including journals, studies and reports, to a review panel must submit a copy of each item or document to the Administrator no later than 7 days before the date the hearing is to begin.

- (2) Written material submitted under subsection (1) forms part of the public record.
- (3) Unless directed otherwise by the Chair, a person who submits written material under subsection (1) must, before the hearing begins, provide copies to the proponent and to any additional persons specified by the Chair.
- (4) Any oral presentation in relation to written material submitted under subsection (1) must be limited to highlighting essential features of the material and responding to questions on the material.

### **Summonses**

- 12 (1) A summons to a witness or a summons for production of documents or things under Section 44 of the Act must be signed by the Administrator.
- (2) A summons to a witness may be in Form 1 of Schedule A and a summons to produce documents or things may be in Form 2 of Schedule A.

### **General format of hearings**

- 13 (1) At the discretion of the Chair, a hearing may be non-judicial, informal and non-adversarial.
- (2) A review panel is not required to follow the strict rules of law, procedure and evidence required by a court.
- (3) A review panel may determine the order of presentations at a hearing.
- (4) Any person may be represented by legal counsel at a hearing.
- (5) Subject to these regulations, before, during and after a hearing, a member of a review panel must not communicate in private with anyone except another panel member, a technical advisor, the Administrator, legal counsel to the panel and staff of a government department about the substantive issues under consideration by the panel.
- (6) A review panel may retain a technical advisor to assist the panel in a hearing and the Administrator must make any report of the technical advisor available to any person on request.
- (7) A review panel may, through the Administrator, permit consultations between a technical advisor retained by the panel and participants in the hearing process.

### **Questioning in general**

- 14 (1) Each question at a hearing must be directed to the Chair, who may invite the appropriate person to respond to the question.
- (2) The Chair may exclude any intervention or question that, in the opinion of the Chair, is outside of the terms of reference of the review panel or is needlessly repetitive in nature.
- (3) The Chair may limit the questions asked and may limit persons in presenting arguments and submissions.
- (4) A question addressed to a group of persons representing the proponent or an intervenor may be directed to a specific member of the group or, if available, the group in general.

- (5) If a question is directed to a specific member of a group representing the proponent or an intervenor and that person is unable to answer because of a lack of knowledge or qualification, the Chair may permit another member of the group to provide the answer.
- (6) If an intervenor or the proponent is unable to answer a question without further consultation or research, the intervenor or proponent must provide an undertaking to provide an answer on or before the close of the hearing or, if that is not possible, no later than 7 days after the close of the hearing and the Administrator must provide the response to the person who asked the question and to any other person on request.

**Oath or affirmation**

- 15** (1) A person giving evidence at a hearing must give an oath or affirmation that the evidence will be the truth, and evidence may be otherwise received only at the discretion of the Chair.
- (2) An oath or affirmation must be administered by the Administrator and, in the absence of the Administrator, by the Chair.

**Presentation by proponent**

- 16** (1) At a hearing, the proponent must ensure that a person or group of persons who are knowledgeable of the undertaking are in attendance and are able to answer questions that are directed to the proponent.
- (2) The Chair must grant a reasonable amount of time to the proponent to present their case to the review panel and to address issues raised in the environmental assessment report.
- (3) Subject to the procedure for written questions prescribed in Section 18, the Chair must permit questioning of the proponent by the review panel, intervenors and other persons.

**Presentations by intervenors at hearing**

- 17** (1) An intervenor who is making a formal presentation at a hearing must make their presentation after the initial presentation by the proponent.
- (2) An intervenor who is making an informal presentation at a hearing must follow those persons who make formal presentations.
- (3) An intervenor who intends to make a presentation at a hearing must provide their name and address and details of any relevant affiliation to the review panel before making the presentation.
- (4) A number of intervenors sitting as a group may give a joint presentation if the review panel is satisfied that in the particular case the tendering of evidence in this manner will result in a full and fair hearing.
- (5) Any presentation by an intervenor at a hearing must not exceed 20 minutes in length.
- (6) An intervenor who requires more than 20 minutes for a presentation at a hearing must make a request for extra time in writing to the Administrator to be forwarded to the Chair for consideration.
- (7) The Chair may extend the duration of a presentation at a hearing.
- (8) To prevent undue repetition, the Chair may limit the duration of a presentation at a hearing.
- (9) Subject to the procedure for questioning prescribed in Section 14, the Chair must permit questioning of an intervenor by the review panel, proponent and other persons.

**Written questions**

**18** If written questions are submitted to the Administrator to be answered by the proponent before a hearing begins, the proponent must make every reasonable attempt to provide written answers before the hearing begins.

**Final response by proponent**

**19** Before the close of a hearing, the proponent must be given the opportunity to make a final presentation to the review panel in response to matters raised at the hearing.

**Open forum**

**20** (1) After the completion of presentations and responses to questions by the proponent and formal and informal presentations and responses to questions by intervenors at a hearing, the Chair may permit presentations or questions from other persons in attendance at the hearing.

(2) Presentations and questions by other persons in attendance referred to in subsection (1), and responses to their questions, are part of the public record.

**Transcript of hearing**

**21** (1) The Administrator must maintain a transcript of all oral evidence presented at a hearing.

(2) The Administrator must make a copy of a transcript of a hearing available at the head office of the Department and at the regional office of the Department that is located nearest to the site of the proposed undertaking.

(3) Any corrections, errors or omissions in a transcript of a hearing must be reported to the Administrator no later than 14 days after the date the copy of the transcript becomes available.

(4) The Chair must make a final ruling on any dispute as to the contents of the transcript of a hearing, after which it becomes part of the public record.

**Written arguments or submissions**

**22** (1) No later than 14 days after the close of a hearing, or within another time period determined by the Chair, a person who participated at the hearing may present written arguments or written submissions through the Administrator to the review panel.

(2) Copies of any written arguments or written submissions presented under subsection (1) are part of the public record and the Administrator must make them available on request.

**Adjourning or extending hearing**

**23** (1) Subject to subsection (2), a review panel may

(a) adjourn a hearing;

(b) reopen a hearing; and

(c) grant any extension of time for a hearing that the Chair considers proper.

(2) A hearing must not be reopened after the review panel has submitted its report and recommendation to the Minister in accordance with Section 26.

**Legal counsel**

**24** A review panel may arrange for legal counsel to attend and assist during a hearing to advise the review panel on any matter pertaining to the hearing and provide liaison with the parties and their counsel.



**Media coverage**

- 25** (1) Subject to the terms and conditions outlined in this Section and any other terms and conditions stipulated by the Chair, a Chair may permit radio and television recordings of a hearing.
- (2) A request for permission under subsection (1) must be made to the Administrator before the beginning of the part of the hearing sought to be recorded.
- (3) Work tables must be provided to members of the media at a hearing.
- (4) Before a hearing begins, camera shots may be taken of the review panel, the persons participating and the audience.
- (5) After a hearing begins, photographic lights must be shut off and cameras left on fixed mounts.
- (6) Photographic and audio equipment must be placed before a hearing begins in locations approved by the Chair and must not be moved while the hearing is in progress.
- (7) Media personnel must not move about while the hearing is in progress so as to distract the review panel or the participants, or to disrupt the hearing.
- (8) Only photographic and audio equipment that does not produce distracting sound or light may be used in the room where a hearing is being held.
- (9) Media interviews may be conducted only at breaks in the hearing or outside the hearing room and only in a manner that will not interfere with the hearing.
- (10) The Chair may disallow the videotaping or recording of all or a portion of a hearing if, in the opinion of the Chair, the taping or recording would inhibit specific witnesses or disrupt the hearing in any way.

**Review panel report**

- 26** (1) A review panel must submit its report and recommendation under Section 39 of the Act to the Minister no later than 110 days following the date an environmental-assessment report is referred to the review panel.
- (2) The Minister may in writing extend the time period specified in subsection (1) and the Administrator must advise the proponent of the extension and the reason for the extension.
- (3) A review panel must determine the style and format of its report to the Minister.
- (4) A review panel report must be dated and bear the signature of the Chair and each other member of the hearing panel.
- (5) A review panel report must contain the names of all witnesses or other persons, bodies or organizations who have contributed to the hearing and a bibliography of all documents and written materials submitted during the hearing process.
- (6) After the decision of the Minister under Section 40 of the Act following receipt of a review panel's report and recommendation, copies of the report of the review panel must be made available to the public on request and at a reasonable cost.

**Public record**

- 27 (1) The Department must keep a copy of each document that forms part of the public record respecting a hearing on file at its head office.
- (2) Copies of the public record, or parts of the public record, must be available to the public and a fee may be charged to cover reasonable costs in connection with production or copying.
- (3) Notes made personally by any member of a review panel in a hearing or in related preparation or deliberations are not part of the record of the matter for the purpose of subsection (1).

**Irregularity does not invalidate proceedings**

- 28 No proceedings before a review panel are invalid by reason of any defect in form or any technical irregularity.

**Schedule A****Form 1: Summons**

IN THE MATTER OF A HEARING before a review panel appointed under Section 42 of the *Environment Act*

**SUMMONS**

To:

Address:

You are required to attend before the review panel at \_\_\_\_\_, in the County of \_\_\_\_\_, on \_\_\_\_\_ (month and day), 20\_\_\_\_, at \_\_\_\_\_ (time—specify a.m./p.m.), and so on from day to day until the matter is heard, to give evidence pertaining to:

(describe nature or subject of hearing as set out in Notice of Hearing)

Dated at \_\_\_\_\_, in the County of \_\_\_\_\_, Province of Nova Scotia, on \_\_\_\_\_ (month and day), 20\_\_\_\_.

Signed \_\_\_\_\_

Administrator

Environmental Assessment Review Panel

**Form 2: Summons to Produce Documents**

IN THE MATTER OF A HEARING before a review panel appointed under Section 42 of the *Environment Act*

**SUMMONS TO PRODUCE DOCUMENTS**

To:

Address:

Take notice that you are hereby required to produce and show to the review panel at a hearing to be held at \_\_\_\_\_, in the County of \_\_\_\_\_, Province of Nova Scotia, on \_\_\_\_\_ (month and day), 20\_\_\_\_, all books, letters and other writings and documents in your custody, possession or power containing any entry, memorandum or minute relating to the matter in question at this hearing, in particular the following:

(list particular items)

Dated at \_\_\_\_\_, in the County of \_\_\_\_\_, Province of Nova Scotia,  
on \_\_\_\_\_ (month and day), 20\_\_\_\_.

Signed \_\_\_\_\_  
Administrator  
Environmental Assessment Review Panel

**N.S. Reg. 20/2013 to 22/2013**

Made: January 22, 2013

Filed: January 22, 2013

Automobile Accident Diagnostic and Treatment Protocols Regulations,  
Automobile Insurance Contract Mandatory Conditions Regulations and  
Automobile Accident Minor Injury Regulations

Order in Council 2013-21 dated January 22, 2013  
Regulations and amendment to regulations made by the Governor in Council  
pursuant to Sections 5, 113E and 159 of the *Insurance Act*

The Governor in Council on the report and recommendation of the Minister responsible for the Insurance Act dated December 7, 2012, and pursuant to Sections 5, 113E and 159 of Chapter 231 of the Revised Statutes of Nova Scotia, 1989, the *Insurance Act*, is pleased, effective on and after April 1, 2013, to

- (a) pursuant to Section 159 of the Act, make new regulations respecting diagnostic and treatment protocols for minor injuries sustained in automobile accidents, in the form set forth in Schedule "A" attached to and forming part of the report and recommendation;
- (b) pursuant to Section 159 of the Act, amend the *Automobile Insurance Contract Mandatory Conditions Regulations*, N.S. Reg. 181/2003, made by the Governor in Council by Order in Council 2003-456 dated October 31, 2003, to accord with new regulations respecting diagnostic and treatment protocols for minor injuries sustained in automobile accidents, in the manner set forth in Schedule "B" attached to and forming part of the report and recommendation; and
- (c) pursuant to Section 5 and Section 113E of the *Insurance Act*, amend the *Automobile Accident Minor Injury Regulations*, N.S. Reg. 94/2010, made by the Governor in Council by Order in Council 2010-254 dated June 22, 2010, to accord with new regulations respecting diagnostic and treatment protocols for minor injuries sustained in automobile accidents, in the manner set forth in Schedule "C" attached to and forming part of the report and recommendation.

**N.S. Reg. 20/2013**

Automobile Accident Diagnostic and Treatment Protocols Regulations

**Schedule "A"**

**Regulations Respecting Diagnostic and Treatment Protocols Related to Automobile Accidents  
made by the Governor in Council under subsection 5(3) and Section 159  
of Chapter 231 of the Revised Statutes of Nova Scotia, 1989,  
the *Insurance Act***

## Interpretation and Application

### Citation

1 These regulations may be cited as the *Automobile Accident Diagnostic and Treatment Protocols Regulations*.

### Definitions for the Act and regulations

2 (1) In these regulations,

“Act” means the *Insurance Act*;

“adjunct therapist” means any of the following:

- (i) a massage therapist,
- (ii) an acupuncturist,
- (iii) an occupational therapist as defined in the *Occupational Therapists Act*;

“chiropractor” means a chiropractor as defined in the *Chiropractic Act*;

“evidence-informed practice” means the conscientious, explicit and judicious use of current best practice in making decisions about the care of a patient, that integrates individual clinical expertise with the best available external clinical evidence from systematic research while recognizing patient preference and individual patient considerations in the determination of treatment;

“health care practitioner” means any of the following who is licensed to practice their profession in the Province:

- (i) a physician,
- (ii) a chiropractor, or
- (iii) a physiotherapist;

“history”, means, in respect of patient’s injury, all of the following:

- (i) how the injury occurred,
- (ii) the current symptoms the patient is experiencing,
- (iii) anything the health care practitioner considers relevant from the patient’s past, including physical, physiological, emotional, cognitive and social history,
- (iv) how the patient’s physical functions have been affected by the injury;

“IMC register” means the register of injury management consultants maintained under Section 24;

“injury management consultant” means a health care practitioner who is entered on the IMC register in accordance with Section 25;

“International Classification of Diseases” means the most recent version of the latest revision of the *International Statistical Classification of Diseases and Related Health Problems*, Canada, published

by the Canadian Institute of Health Information based on the *International Statistical Classification of Diseases and Related Health Problems* published by the World Health Organization;

“patient” means an insured as defined in Section 104 of the Act;

“physiotherapist” means a physiotherapist as defined in the *Physiotherapy Act*;

“prescribed claim form” means a form approved by the Superintendent for the purpose of these regulations, and includes forms for assessments, treatment plans and concluding reports;

“protocols” means the diagnostic and treatment protocols established by these regulations for a sprain, strain or whiplash injury caused by an accident;

“spine” means the column of bone, known as the vertebral column, that surrounds and protects the spinal cord, and includes all of the following categorizations of the column according to the level of the body: cervical spine (neck), thoracic spine (upper and middle back) and lumbar or lumbosacral spine (lower back);

“sprain” means an injury to one or more tendons, to one or more ligaments, or to both tendons and ligaments;

“Section B benefits” means the benefits required under Section 140 of the Act as set out in Schedule 2 to the *Automobile Insurance Contract Mandatory Conditions Regulations* made under the Act;

“strain” means an injury to one or more muscles;

“treatment plan” means a treatment plan described in Section 18;

“whiplash-associated disorder injury” means a whiplash-associated disorder other than one that exhibits one or all of the following:

- (i) neurological signs that are objective, demonstrable, definable and clinically relevant,
- (ii) a fracture to the spine or dislocation of the spine;

“whiplash injury” means a whiplash-associated disorder injury;

- (2) For the purpose of clause 159(1)(ka) of the Act and these regulations, “assessment” includes diagnosis.

### **Application of regulations**

- 3 (1) These regulations apply to the examination, assessment and treatment or rehabilitation of strains, sprains and whiplash injuries suffered by an insured as a result of an accident in respect of which Section B benefits are payable.
- (2) These regulations apply only if
  - (a) a patient wishes to be diagnosed and treated in accordance with the protocols; and
  - (b) a health care practitioner chooses to diagnose and treat the patient’s sprain, strain or whiplash injury in accordance with the protocols.

- (3) Except as provided in subsection (4) or as necessary to process a claim under Sections 28 to 36 for treatment already provided, these regulations do not apply to an injury, and no treatment is authorized under these regulations, if 90 days have passed from the date of the accident in which the patient was injured.
- (4) If a health care practitioner refers a patient to an injury management consultant under Section 23 within 90 days from the date of the accident, any examinations, further assessment, multi-disciplinary assessment or reports referred to in that Section may be completed under these regulations after the 90 days.

**Scope of health care practitioner's practice**

- 4 Nothing in these regulations permits a health care practitioner to do anything that is outside the scope of their practice as determined by their governing body and legislation.

**No independent medical examination**

- 5 An insurer does not have the right to overrule a health care practitioner's diagnosis under these regulations and cannot introduce an independent medical examination during treatment under these regulations.

**Interpretative bulletins and information circulars**

- 6 The Superintendent may issue interpretative bulletins and information circulars about any matter the Superintendent considers appropriate under these regulations, including any of the following:
  - (a) describing the roles and general expectations of persons affected by or who have an interest in the implementation, application, administration and operation of these regulations;
  - (b) respecting the implementation, application, administration and operation of these regulations.

**Review of regulations**

- 7 These regulations must be reviewed
  - (a) as part of the mandatory 7-year review of automobile insurance provided for in Section 159BA of the Act; or
  - (b) sooner or more often than as required by clause (a), at the discretion of the Superintendent, and the Superintendent must deliver the result of the review to the Minister.

**Prescribed fees**

- 8 (1) The Superintendent may prescribe the fees and disbursements or the maximum fees and disbursements to be paid for any service, activity or function authorized under these regulations, including any of the following:
  - (a) diagnostic imaging;
  - (b) laboratory testing;
  - (c) specialized testing;
  - (d) supplies;
  - (e) treatment plans;
  - (f) visits;

- (g) therapies;
  - (h) assessments;
  - (i) reports and other prescribed claim forms.
- (2) The fees and disbursements or maximum fees and disbursements prescribed under subsection (1) must be published in the Royal Gazette, Part I.

### Diagnosis and Treatment Protocol for Strains and Sprains

#### Protocol established for strains and sprains

9 Sections 10 to 12 are established as the protocol for diagnosing and treating strains and sprains.

#### Developing diagnosis for strains and sprains

- 10 (1) Using evidence-informed practice and referring to the International Classification of Diseases, a health care practitioner must use the following process to diagnose a strain or sprain:
- (a) take a history of the patient;
  - (b) examine the patient;
  - (c) make any ancillary investigation considered necessary;
  - (d) identify
    - (i) for strains, the muscle or muscle groups injured, and
    - (ii) for sprains, the tendons or ligaments, or both, that are involved and the specific anatomical site of the injury.
- (2) A health care practitioner must use the diagnostic criteria set out in the following table to determine the degree of severity of a strain (as extracted from *Orthopaedic Physical Assessment* by David J. Magee, (5th), (2008), at page 29, and reproduced with permission from the publisher Elsevier Inc.):

	1st Degree Strain	2nd Degree Strain	3rd Degree Strain
Definition of the degree of strain	few fibres of muscles torn	about half of muscle fibres torn	all muscle fibres torn (rupture)
Mechanism of injury	overstretch overload	overstretch overload crushing	overstretch overload
Onset	acute	acute	acute
Weakness	minor	moderate to major (reflex inhibition)	moderate to major
Disability	minor	moderate	major
Muscle spasm	minor	moderate to major	moderate

<b>Swelling</b>	minor	moderate to major	moderate to major
<b>Loss of function</b>	minor	moderate to major	major (reflex inhibition)
<b>Pain on isometric contraction</b>	minor	moderate to major	no to minor
<b>Pain on stretch</b>	yes	yes	not if it is the only tissue injured; however, often with 3rd degree injuries other structures will suffer 1st or 2nd degree injuries and be painful
<b>Joint play</b>	normal	normal	normal
<b>Palpable defect</b>	no	no	yes (if early)
<b>Crepitus</b>	no	no	no
<b>Range of motion</b>	decreased	decreased	may increase or decrease depending on swelling

- (3) A health care practitioner must use diagnostic criteria set out in the following table to determine the degree of severity of a sprain (as extracted from *Orthopaedic Physical Assessment* by David J. Magee, (5th), (2008), at page 29, reproduced with permission from the publisher Elsevier Inc.):

	<b>1st Degree Sprain</b>	<b>2nd Degree Sprain</b>	<b>3rd Degree Sprain</b>
<b>Definition of the degree of sprain</b>	few fibres of ligament torn	about half of ligament torn	all fibres of ligament torn
<b>Mechanism of injury</b>	overload overstretch	overload overstretch	overload overstretch
<b>Onset</b>	acute	acute	acute
<b>Weakness</b>	minor	minor to moderate	minor to moderate
<b>Disability</b>	minor	moderate	moderate to major
<b>Muscle spasm</b>	minor	minor	minor
<b>Swelling</b>	minor	moderate	moderate to major
<b>Pain on isometric contraction</b>	no	no	no



<b>Pain on stretch</b>	yes	yes	not if it is the only tissue injured; however, often with 3rd degree injuries other structures will suffer 1st or 2nd degree injuries and be painful
<b>Joint play</b>	normal	normal	normal to excessive
<b>Palpable defect</b>	no	no	yes (if early)
<b>Crepitus</b>	no	no	no
<b>Range of motion</b>	decreased	decreased	may increase or decrease depending on swelling. dislocation or subluxation possible

### Treatment protocol for strains and sprains

**11 (1)** During treatment under these regulations, a health care practitioner must treat a strain or a sprain by doing all of the following:

- (a) educating the patient about the following matters:
  - (i) the desirability of an early return to 1 or more of the following, as they apply to the patient:
    - (A) their employment, occupation or profession,
    - (B) their training or education in a program or course,
    - (C) their usual daily activities,
  - (ii) an estimate of the probable length of time that symptoms will last, the estimated time for recovery and the length of the treatment process;
- (b) managing inflammation and pain
  - (i) by the protected use of ice,
  - (ii) by elevating the injured area,
  - (iii) by compression, and
  - (iv) for a sprain, by using reasonable and necessary equipment to protect the sprained joint during the acute phase of recovery;

- (c) teaching the patient about maintaining flexibility, balance, strength and the functions of the injured area;
  - (d) giving advice about self-care;
  - (e) preparing patient for a return to the following, as they apply to the patient:
    - (i) their employment, occupation or profession,
    - (ii) their training or education in a program or course,
    - (iii) their usual daily activities;
  - (f) discussing the disadvantage of depending on health care providers and passive modalities of care for extended periods of time;
  - (g) prescribing medication, if appropriate, including analgesics for the sole purpose of short-term treatment of the injury, such as non-~~opioid~~[opioid] analgesics, non-steroidal anti-inflammatory drugs or muscle relaxants, but treatment under these regulations does not include prescribing narcotics;
  - (h) subject to subsection (3), providing treatment that is appropriate and that the health care practitioner considers necessary to treat or rehabilitate the injury;
  - (i) referring the patient for any adjunct therapy that
    - (i) the health care practitioner considers necessary to treat or rehabilitate the injury, and
    - (ii) is linked to the continued clinical improvement of the patient.
- (2) During treatment under these regulations for a 3rd degree strain or sprain, in addition to the treatment under subsection (1), definitive care of specific muscles, muscle groups, tendons or ligaments at specific anatomical sites, should be completed, including all of the following, as required:
- (a) immobilization;
  - (b) strengthening exercises;
  - (c) surgery;
  - (d) if surgery is required, post-operative rehabilitation therapy.
- (3) During treatment under these regulations, a health care practitioner must not treat a 1st or 2nd degree sprain or strain to a peripheral joint by a brief, fast thrust to move the joints beyond the normal range in the anatomical range of motion.

#### **Diagnostic and treatment authorization for strains and sprains**

- 12** (1) A health care practitioner is authorized to provide or approve any of the following in treating a 1st degree, 2nd degree or 3rd degree strain or sprain in accordance with Section 11:
- (a) necessary diagnostic imaging, laboratory testing and specialized testing;

- (b) necessary medication, as determined by the health care practitioner, except that narcotics are not authorized for reimbursement under these regulations;
  - (c) necessary supplies, in accordance with any guidelines that may be published by the Superintendent, to assist in the treatment or rehabilitation of the injury.
- (2) The maximum number of treatment visits authorized under these regulations for treatment of strains and sprains is as set out in Section 19.

### **Diagnostic and Treatment Protocol for Whiplash Injuries**

#### **Protocol established for whiplash injuries**

**13** Sections 14 to 17 are established as the protocol for diagnosing and treating whiplash I and II injuries.

#### **Developing the diagnosis for whiplash injuries**

**14** Using evidence-informed practice, a health care practitioner must use the following process to diagnose a whiplash injury:

- (a) take a history of the patient;
- (b) examine the patient;
- (c) make any ancillary investigation considered necessary;
- (d) identify the anatomical sites.

#### **Diagnostic criteria for whiplash I and whiplash II injuries**

**15 (1)** A health care practitioner must use all of the following criteria to diagnose a whiplash I injury:

- (a) complaints of spinal pain, stiffness or tenderness;
- (b) no demonstrable, definable and clinically relevant physical signs of injury;
- (c) no objective, demonstrable, definable and clinically relevant neurological signs of injury;
- (d) no fractures to or dislocation of the spine.

(2) A health care practitioner must use all of the following criteria to diagnose a whiplash II injury:

- (a) complaints of spinal pain, stiffness or tenderness;
  - (b) demonstrable, definable and clinically relevant physical signs of injury including
    - (i) musculoskeletal signs of decreased range of motion of the spine, and
    - (ii) point tenderness of spinal structures affected by the injury;
  - (c) no objective, demonstrable, definable and clinically relevant neurological signs of injury;
  - (d) no fracture to or dislocation of the spine.
- (3) An investigation to determine a whiplash II injury and to rule out a more severe injury may include any of the following:

- (a) for cervical spine injuries, radiographic series in accordance with *The Canadian C-Spine Rule for Radiography in Alter and Stable Trauma Patients*, published in *The Journal of the American Medical Association*, October 17, 2001–Volume 286, No. 15;
  - (b) for thoracic, lumbar and lumbosacral spine injuries, radiographic series that are appropriate to the region of the spine that is injured, if the patient has 1 or more of the following characteristics:
    - (i) an indication of bone injury,
    - (ii) an indication of significant degenerative changes or instability,
    - (iii) an indication of polyarthritis,
    - (iv) an indication of osteoporosis,
    - (v) a history of cancer.
- (5) The use of magnetic resonance imaging or computerized tomography is authorized only if 1 of the following conditions is met:
- (a) a diagnosis cannot be determined from 3 plain view films;
  - (b) there are objective neurological or clinical findings.

#### **Treatment protocol for whiplash I and whiplash II injuries**

**16** During treatment under these regulations, a health care practitioner must treat a whiplash I or whiplash II injury by doing all of the following:

- (a) educating the patient about the following matters:
  - (i) the desirability of an early return to the following, as they apply to the patient:
    - (A) their employment, occupation or profession,
    - (B) their training or education in a program or course,
    - (C) their usual daily activities,
  - (ii) an estimate of the probable length of time that symptoms will last, the estimated time for recovery and the length of the treatment process,
  - (iii) that there is likely no serious currently detectable underlying cause of the pain,
  - (iv) the importance of postural and body mechanics control,
  - (v) that the use of a soft collar is not advisable,
  - (vi) the probable factors responsible for other symptoms the patient may be experiencing that are temporary in nature and that are not reflective of tissue damage, including
    - (A) disturbance of balance,

- (B) disturbance or loss of hearing,
  - (C) limb pain or numbness,
  - (D) cognitive dysfunction, and
  - (E) jaw pain;
- (b) giving advice about self-care;
  - (c) preparing the patient for return to the following, as they apply to the patient:
    - (i) their employment, occupation or profession,
    - (ii) their training or education in a program or course,
    - (iii) their usual daily activities;
  - (d) discussing the disadvantage of depending on health care providers and passive modalities of care for extended periods of time;
  - (e) prescribing medication, if appropriate, including analgesics for the sole purpose of short-term treatment of spinal injury, such as non-~~opoid~~[opioid] analgesics, non-steroidal anti-inflammatory drugs or muscle relaxants, but treatment under these regulations does not include prescribing narcotics;
  - (f) recommending
    - (i) pain management, as required,
    - (ii) exercise,
    - (iii) using heat and ice;
  - ~~(f)~~(g) providing treatment that is appropriate and that the health care practitioner considers necessary to treat or rehabilitate the injury;
  - (h) referring the patient for any adjunct therapy that
    - (i) the health care practitioner considers necessary to treat or rehabilitate the injury, and
    - (ii) is linked to the continued clinical improvement of the patient.

**Diagnostic and treatment authorization for whiplash I and whiplash II injuries**

**17 (1)** A health care practitioner is authorized to provide or approve any of the following in treating a whiplash I or whiplash II injury in accordance with Section 16:

- (a) necessary diagnostic imaging, laboratory testing and specialized testing;
- (b) necessary medication to manage inflammation or pain, or both, except that narcotics are not authorized for reimbursement under these regulations;

- (c) necessary supplies, as determined by the Superintendent, to assist in treating or rehabilitating the injury.
- (2) The maximum number of treatment visits authorized under the protocol for diagnosing and treating whiplash I and II injuries is as set out in Section 19.

### **Treatment Plans, Limits and Referrals**

#### **Treatment plans**

- 18** (1) A treatment plan describing the treatments that will be provided under the protocols must be prepared on a prescribed claim form.
- (2) An insurer is not required to approve claims or provide payment for more than 1 treatment plan per patient per accident.
- (3) A patient's treatment plan must be completed by the health care practitioner who intends to provide the majority of treatment or who will be actively co-ordinating the care and treatment visits of the patient.
- (4) A health care practitioner must provide copies of a patient's treatment plan to all of the following:
- (a) the patient's insurer;
  - (b) all practitioners providing treatment for the patient;
  - (c) the patient.
- (5) A health care practitioner who refers a patient to another health care practitioner for treatment in accordance with Section 22 must notify the other practitioner whether they have completed a treatment plan for the patient.
- (6) Before treating a patient under the protocols, a health care practitioner must ask the patient if any other practitioner has been contacted about the patient's injury and, if others have been contacted, must
- (a) document any actions taken by the other practitioners; and
  - (b) contact the patient's insurer to ensure no other treatment plan has been submitted or is anticipated.

#### **Maximum number of visits authorized for treatment under protocols**

- 19** (1) One visit to a health care practitioner for assessment of the injury or injuries is authorized for treatment of
- (a) a single injury diagnosed and treated under the protocols; or
  - (b) 2 or more injuries from a single accident diagnosed and treated under the protocols.
- (2) In addition to the assessment visit under subsection (1), the maximum number of visits authorized for treatment of an injury under these regulations is as set out in the following table:

Injury Diagnosed	Total Number of Visits Authorized
1st or 2nd degree strain or sprain	combined total of <b>10</b> visits to a physiotherapist, chiropractor or adjunct therapist
3rd degree strain or sprain	combined total of <b>21</b> visits to a physiotherapist, chiropractor or adjunct therapist
whiplash I injury	combined total of <b>10</b> visits to a physiotherapist, chiropractor or adjunct therapist
whiplash II injury	combined total of <b>21</b> visits to a physiotherapist, chiropractor or adjunct therapist

- (3) Despite the number of visits authorized under subsection (2), for patients with 2 or more injuries from a single accident diagnosed and treated under the protocols, the following are the total number of visits authorized for treatment of the injuries under these regulations in addition to the assessment visit under subsection (1):

Multiple Injuries Diagnosed		Total Number of Visits Authorized
A	2 or more of: <ul style="list-style-type: none"> <li>• 1st degree strain</li> <li>• 2nd degree strain</li> <li>• 1st degree sprain</li> <li>• 2nd degree sprain</li> <li>• whiplash I injury</li> </ul>	combined total of <b>10</b> visits to a physiotherapist, chiropractor or adjunct therapist
B	1 or more of the injuries in row A plus 1 or more of: <ul style="list-style-type: none"> <li>• 3rd degree strain</li> <li>• 3rd degree sprain</li> <li>• whiplash II injury</li> </ul>	combined total of <b>21</b> visits to a physiotherapist, chiropractor or adjunct therapist
C	2 or more of: <ul style="list-style-type: none"> <li>• 3rd degree sprain</li> <li>• 3rd degree strain</li> <li>• whiplash II injury</li> </ul>	combined total of <b>21</b> visits to a physiotherapist, chiropractor or adjunct therapist

#### Assessment for injury to which regulations do not apply

- 20** Despite Section 3, if after an assessment a physiotherapist or a chiropractor diagnoses an injury as one to which these regulations do not apply, the assessment may be claimed under these regulations.

#### Referrals to other health care practitioners

- 21** A health care practitioner may refer a patient to another health care practitioner or to an adjunct therapist in accordance with the protocols, and any visits to the referred health care practitioner or adjunct therapist are authorized in accordance with the limitations set out in Section 19.

**Applying to insurer for approval of additional Section B services or supplies**

**22** Nothing in these regulations prevents or limits a patient or a health care practitioner from applying to an insurer for approval of additional treatments by a health care practitioner or adjunct therapist outside the limits specified by these regulations in accordance with the Act and the Section B benefits.

**Referral to injury management consultant**

- 23 (1)** A health care practitioner may refer a patient for 1 visit to an injury management consultant of the health care practitioner's choice in any of the following circumstances:
- (a) the health care practitioner is uncertain about an injury to which the protocols apply or the diagnosis or treatment of the injury;
  - (b) the health care practitioner requires another opinion or report because they believe that the injury is not
    - (i) resolving appropriately, or
    - (ii) resolving within the time expected;
  - (c) the health care practitioner believes the patient exhibits limitation of a physical or cognitive function that results in the patient's inability to perform any of the following:
    - (i) the essential tasks of their regular employment, occupation or profession despite reasonable efforts to accommodate their injury and the patient's reasonable efforts to use the accommodation to allow them to continue their employment, occupation or profession,
    - (ii) the essential tasks of their training or education in a program or course that they were enrolled in, or had been accepted for enrolment in at the time of the accident, despite reasonable efforts to accommodate their injury and the patient's reasonable efforts to use the accommodation to allow them to continue their training or education,
    - (iii) their usual daily activities;
  - (d) the health care practitioner has a difference of opinion about the diagnosis or treatment of the injury with another health care practitioner that cannot be resolved.
- (2)** On a visit referred under subsection (1), an injury management consultant may complete an assessment and prepare a report that must include 1 of the following:
- (a) advice about the diagnosis or treatment of the patient;
  - (b) a recommendation for a multi-disciplinary assessment of the injury, or an aspect of the injury, and the health care practitioners who should be included in that assessment.
- (3)** The visit and the costs and expenses related to an assessment and report by an injury management consultant under subsection (2) may be claimed under these regulations, and the visit does not count toward the total limits on visits in Section 19.
- (4)** Other than the visit, assessment and report described in this Section, no further visit to or assessment or report by an injury management consultant in respect of the same injury is authorized under these regulations.



## Injury Management Consultants Register

### Register maintained by Superintendent

- 24** (1) The Superintendent must maintain and administer a register of injury management consultants.
- (2) The Superintendent must ensure that the IMC register is published in a form and manner that makes the register accessible to the public.

### Eligibility requirements for injury management consultants

- 25** (1) A health care practitioner is an injury management consultant under these regulations if the Superintendent is notified by the following body that the person meets the requirements set out in subsection (2), and the Superintendent [Superintendent] enters the person's name in the IMC register:
- (a) for a physician, by the College of Physicians and Surgeons of Nova Scotia;
  - (b) for a chiropractor, by the Nova Scotia College of Chiropractors;
  - (c) for a physiotherapist, by the Nova Scotia College of Physiotherapists.
- (2) A person is eligible to be an injury management consultant if the person meets any qualifications established by the Superintendent and approved by the relevant colleges, including all of the following qualifications:
- (a) they are an active practising member of their profession;
  - (b) they are knowledgeable about the biopsychosocial model;
  - (c) they are knowledgeable about assessing acute and chronic pain;
  - (d) they are experienced in rehabilitation and disability management;
  - (e) they use evidence-informed practices in their practice.

### Ceasing to be an injury management consultant

- 26** A person ceases to be an injury management consultant when all of the following conditions are met:
- (a) the college for the person's profession notifies the Superintendent that the person's name is to be removed from the IMC register;
  - (b) the Superintendent removes the person's name from the IMC register.

## Claims and Payment of Claims

### Definitions for Sections 27 to 36

**27** In this Section and Sections 28 to 36,

“applicant” means a patient or health care practitioner who sends a completed prescribed claim form to the insurer in accordance with Section 29;

“business day” means any day other than a Saturday, Sunday or a holiday as defined in the *Interpretation Act*.

**Priority of Sections 27 to 36**

**28** Sections 27 to 36 prevail in respect of any inconsistency or conflict between these provisions and the required Section B benefits.

**Sending claim to insurer**

- 29** (1) A patient or health care practitioner may not make a claim under these regulations until the patient has completed the applicable prescribed claim form for their injury.
- (2) The completed prescribed claim form under subsection (1) must be sent to the insurer no later than
- (a) 10 business days after the date of the accident; or
  - (b) if the deadline in clause (a) is not reasonable, as soon as practicable.

**Decision by insurer**

- 30** (1) No later than 5 business days after receiving a completed prescribed claim form, an insurer must send the applicant a decision notice that
- (a) approves the claim; or
  - (b) refuses the claim, including the reasons for refusing the claim.
- (2) A claim may be refused by an insurer for the following reasons only:
- (a) the person who was injured does not meet the definition of “patient”;
  - (b) the insurer is not liable to pay as a result of an exclusion set out in *Subsection 3 - Special Provisions, Definitions and Exclusions of this Section* of the Section B benefits;
  - (c) there is no existing contract that applies to the person who was injured;
  - (d) the injury was not caused by an accident arising out the use or operation of an automobile.
- (3) If an insurer indicates to a health care practitioner that no other treatment plans have been submitted or are anticipated in respect of a patient, the insurer must not refuse any prescribed claim forms submitted by the health care practitioner in respect of the treatment plan for that patient.

**If insurer does not respond to applicant**

**31** If an insurer does not send a decision notice back to the applicant in accordance with Section 30, then the insurer is deemed to have approved the claim.

**Denial of liability after approval or deemed approval**

- 32** (1) An insurer who approves a claim, or is deemed to have approved a claim, may later refuse the claim by sending a notice in writing to all of the following, including the reasons why the claim is denied:
- (a) the patient;
  - (b) each person that the patient is authorized to visit or is authorized to provide services or supplies to the patient.
- (2) An insurer may refuse a claim under subsection (1) for the reasons set out in subsection 30(2) only.

- (3) A notice under this Section takes effect on the date it is received by the person to whom it is sent and, on and after the date the patient receives the notice, the insurer is not liable to pay any future claims under these regulations relating to the patient's injuries.

### **Making and paying claims**

- 33** (1) Any treatment that is authorized under these regulations may be the subject of a claim under subsection (2).
- (2) No later than 30 days after receiving it, an insurer must pay any claim for treatment that is authorized under these regulations and that meets all of the following conditions:
- (a) it includes all related invoices and, if submitted by a patient, receipts for the supplies and services claimed together with satisfactory evidence that the treatment is authorized by these regulations;
  - (b) if submitted by a health care practitioner, injury management consultant or adjunct therapist, it is verified by the patient treated.

### **Sending notices**

- 34** Any notice required or permitted to be sent under Sections 28 to 36 may be sent by any of the following methods:
- (a) delivered personally;
  - (b) mailed;
  - (c) faxed;
  - (d) transmitted by e-mail, if both parties agree to this method of sending and receiving notices.

### **Multiple claims**

- 35** For greater certainty, a person who has a claim under these regulations and a claim for other benefits as set out in *Subsection 3 - Special Provisions, Definitions and Exclusions of this Section* of the Section B benefits, must comply with these regulations and the Section B benefits, according to the claim or claims made.

### **Concluding report and final invoice**

- 36** (1) The health care practitioner who completed the majority of treatments for a patient must prepare a concluding report on a prescribed claim form and send it to the insurer after treatment under these regulations is completed.
- (2) A health care practitioner must send the patient a copy of the final invoice they sent to the insurer, together with a standard letter that includes the following statements:
- “We have billed your insurer the amounts shown on the attached invoice for the goods and services listed. Please check the invoice and report any errors to us and to your insurer.”

**N.S. Reg. 21/2013**

## Automobile Insurance Contract Mandatory Conditions Regulations

**Schedule “B”**

**Amendment to *Automobile Insurance Contract Mandatory Conditions Regulations*  
made by the Governor in Council under Section 159 of Chapter 231  
of the Revised Statutes of Nova Scotia, 1989,  
the *Insurance Act***

- 1 Schedule 2 to the *Automobile Insurance Contract Mandatory Conditions Regulations*, N.S. Reg. 181/2003, made by the Governor in Council by Order in Council 2003-456 dated October 31, 2003, is amended by adding “Section (B)” immediately after “Accident Benefits Section” in the subheading to the Schedule.
- 2 Subsection 1 of Schedule 2 to the regulations is repealed and the following subsection substituted:

**Subsection 1 - Medical, Rehabilitation and Funeral Expenses**

This subsection applies to any accident claim with respect to an accident that occurs on or after April 1, 2013.

- 1 (1) In this subsection, “the Protocols Regulations” means the *Automobile Accident Diagnostic and Treatment Protocols Regulations* made under the *Insurance Act*.
- (2) To the limit of \$50,000 per person, all reasonable expenses incurred within four years from the date of the accident as a result of the injury for necessary medical, surgical, dental, chiropractic, hospital, professional nursing and ambulance service and for any other service within the meaning of insured services under the *Health Services and Insurance Act* and for such other services and supplies which are, in the opinion of the physician of the insured person’s choice and that of the Insurer’s medical advisor, essential for the treatment, occupational retraining or rehabilitation of the person, in respect of
  - (a) an injury to which the Protocols Regulations apply that is diagnosed and treated in accordance with the Regulations, the expenses payable for any treatment, supply or service, diagnostic imaging, laboratory testing, specialized testing, visit, therapy, assessment or making a report, or any other activity or function authorized under the Protocols Regulations, and for which payment is made in the manner required by and subject to the provisions of the Protocols Regulations, notwithstanding anything to the contrary in this section; and
  - (b) an injury
    - (i) to which the Protocols Regulations apply but that is not diagnosed and treated in accordance with the Protocols Regulations,
    - (ii) to which the Protocols Regulations cease to apply but for which the insured person wishes to make a claim under provision (4) (notice and proof of claim) of Subsection 3 - Special Provisions, Definitions, and Exclusions of this section, or
    - (iii) to which this section applies, other than an injury referred to in (i) and (ii).

- 2 Subject to provision 3, the Insurer is not liable under this Subsection for those portions of expenses payable or recoverable under any medical, surgical, dental or hospitalization plan or law or, except for similar insurance provided under another automobile insurance contract, under any other insurance contract or certificate issued to or for the benefit of any insured person.
- 3 Except for those portions of expenses payable or recoverable under any law, provision 2 does not apply to the expenses payable or recoverable for an injury to which the Protocols Regulations apply.
- 4 Funeral expenses incurred up to the amount of \$2500 in respect of the death of any one person.
- 3 Subsection 3 of Schedule 2 to the regulations is amended by striking out “The insured person” in provision (4) and substituting “Subject to the *Automobile Accident Diagnostic and Treatment Protocols Regulations*, the insured person”.
- 4 Provision (5) of Subsection 3 of Schedule 2 to the regulations is repealed and the following provision substituted:
  - (5) **Medical Reports**
    - (a) Except as provided in clause (b), the Insurer has the right, and the claimant must afford the Insurer with an opportunity, to examine the person of the insured person when and as often as it reasonably requires while the claim is pending and, in the case of the death of the insured person, to make an autopsy subject to the law relating to autopsies.
    - (b) Clause (a) does not apply with respect to an injury while it is treated under the *Automobile Accident Diagnostic and Treatment Protocols Regulations*, and the insurer has no right to independent review of any treatment, supply or service, diagnostic imaging, laboratory testing, specialized testing, visit, therapy, assessment, making of a report or other activity or function authorized under the *Automobile Accident Diagnostic and Treatment Protocols Regulations*.
- 5 Subsection 3 of Schedule 2 to the regulations is further amended by striking out “All amounts payable” in clause (7)(a) and substituting “Subject to the *Automobile Accident Diagnostic and Treatment Protocols Regulations*, all amounts payable”.

## N.S. Reg. 22/2013

### Automobile Accident Minor Injury Regulations

#### Schedule “C”

**Amendment to *Automobile Accident Minor Injury Regulations*  
made by the Governor in Council under Section 159 of Chapter 231  
of the Revised Statutes of Nova Scotia, 1989,  
the *Insurance Act***

- 1 Clause 11(1)(a) of the *Automobile Accident Minor Injury Regulations*, N.S. Reg. 94/2010, made by the Governor in Council by Order in Council 2010-254 dated June 22, 2010, is amended by adding the following subsection immediately after subsection (1):
  - (1A) For the purpose of clause (1)(a), the determination as to whether an injury is a sprain, strain or whiplash-associated disorder injury must be based on an individual assessment of the claimant in accordance with the *Automobile Accident Diagnostic and Treatment Protocols Regulations* made under the Act.

- 2 (1) Clause 12(1)(b) of the regulations is amended by striking out “not sought and complied with all reasonable treatment recommendations of a medical practitioner trained and experienced in the assessment and treatment of the personal injuries” and substituting “not sought and complied with diagnosis and treatment under the *Automobile Accident Diagnostic and Treatment Protocols Regulations* made under the Act”.
- (2) Subsection 12(1) of the regulations is further amended by striking out “reasonable treatment recommendations of a medical practitioner trained and experienced in the assessment and treatment of the personal injuries” and substituting “diagnosis and treatment in accordance with the regulations referred to in clause (b)”.
- 

**N.S. Reg. 23/2013**

Made: January 18, 2013

Filed: January 23, 2013

Designation of Livestock for Farming Purposes

Order dated January 18, 2013  
made by the Minister of Agriculture  
pursuant to clause 13(a) of the *Livestock Health Services Act*

**In the matter of clause 13(a) of Chapter 8 of the Acts of 2001,  
the *Livestock Health Services Act***

- and -

**In the matter of an order designating livestock for farming purposes  
made by the Minister of Agriculture under clause 13(a) of  
the *Livestock Health Services Act***

**Order**

I, John MacDonell, Minister of Agriculture for the Province of Nova Scotia, pursuant to clause 13(a) of Chapter 8 of the Acts of 2001, the *Livestock Health Services Act*, am pleased to amend the order designating livestock for farming purposes, N.S. Reg. 186/2010, made by the Minister of Agriculture on December 2, 2010, by striking out clause (f) and substituting the following clause:

- (f) chinchilla, fox and mink kept in captivity for the purpose of fur production pursuant to a licence issued under the *Fur Industry Act*;

This order is effective January 11, 2013.

Dated and made at Halifax, Halifax Regional Municipality, on January 18th, 2013.

Sgd.: *John MacDonell*  
The Honourable John MacDonell  
Minister of Agriculture

**N.S. Reg. 24/2013**

Made: January 24, 2013

Filed: January 25, 2013

Prescribed Petroleum Products Prices

Order dated January 24, 2013  
made by the Nova Scotia Utility and Review Board  
pursuant to Section 14 of the *Petroleum Products Pricing Act*  
and Sections 16 to 19 of the *Petroleum Products Pricing Regulations*

**Order****NSUARB-GAS-W-13-04****In the Matter of the *Petroleum Products Pricing Act*****- and -**

**In the Matter of Prescribing Prices for Petroleum Products  
pursuant to Section 14 of the *Petroleum Products Pricing Act* and  
Sections 16 to 19 of the *Petroleum Products Pricing Regulations***

**Before:** Roberta J. Clarke, Q.C., Member**Order**

**Whereas** the purpose of the *Petroleum Products Pricing Regulations* is to ensure just and reasonable prices for specified petroleum products taking into consideration the objectives of preserving the availability of such products in rural areas, stabilizing prices of such products and minimizing the variances in prices of such products across the Province;

**And whereas** the Nova Scotia Utility and Review Board (“Board”) considered the manner in which it would proceed to set petroleum prices in its decision, 2006 NSUARB 108, issued on October 16, 2006;

**And whereas** the Board revised the retail margin and transportation allowance effective January 6, 2012, in its decision, 2011 NSUARB 181, issued on November 23, 2011;

**And whereas** the Board revised the wholesale margin effective January 4, 2013, in its decision 2012 NSUARB 213, issued on December 12, 2012;

**And whereas** the average of the average of the daily high and low reported product prices (in Canadian cents) for the week ended January 23, 2013, are:

Grade 1 Regular gasoline	74.4¢ per litre
Ultra-low-sulfur diesel oil	81.3¢ per litre

**Now therefore** the Board prescribes the benchmark prices for petroleum products to be:

Gasoline:	
Grade 1	74.4¢ per litre
Grade 2	77.4¢ per litre
Grade 3	80.4¢ per litre
Ultra-low-sulfur diesel oil	81.3¢ per litre

**And now therefore** the Board has determined, based on historical data regarding price changes and to achieve revenue neutrality, it is appropriate to apply, and the Board so orders, forward averaging corrections of:

Gasoline:	plus 0.4¢ per litre
Ultra-low-sulfur diesel oil:	plus 0.4¢ per litre

**And whereas** a winter blending adjustment of plus 5.5¢ per litre is required for ultra-low-sulfur diesel oil;

**And now therefore** the Board prescribes the prices for petroleum products as set forth in Schedule “A” effective on and after 12:01 a.m., January 25, 2013.

Dated at Halifax, Nova Scotia, this 24th day of January, 2013.

Sgd: Elaine Wagner  
Clerk of the Board

**Schedule "A"**

**Prices Prescribed for Petroleum Products  
under the *Petroleum Products Pricing Act* and the  
*Petroleum Products Pricing Regulations*  
effective on and after 12:01 a.m. on January 25, 2013**

<b>Nova Scotia Petroleum Price Schedule</b>								
<b>Petroleum Prices in Cents/Litre</b>					<b>Self-Service Pump Prices</b>		<b>Full-Service Pump Prices</b>	
					<b>(Pump Prices includes 15% HST)</b>			
	<b>Base Wholesale Price</b>	<b>Fed. Excise Tax</b>	<b>Prov. Tax</b>	<b>Wholesale Selling Price</b>	<b>Min</b>	<b>Max</b>	<b>Min</b>	<b>Max</b>
<b>Zone 1</b>								
Regular Unleaded	81.9	10.0	15.5	107.4	129.0	131.1	129.0	999.9
Mid-Grade Unleaded	84.9	10.0	15.5	110.4	132.5	134.6	132.5	999.9
Premium Unleaded	87.9	10.0	15.5	113.4	135.9	138.0	135.9	999.9
Ultra-Low-Sulfur Diesel	94.4	4.0	15.4	113.8	136.4	138.5	136.4	999.9
<b>Zone 2</b>								
Regular Unleaded	82.4	10.0	15.5	107.9	129.6	131.7	129.6	999.9
Mid-Grade Unleaded	85.4	10.0	15.5	110.9	133.1	135.1	133.1	999.9
Premium Unleaded	88.4	10.0	15.5	113.9	136.5	138.6	136.5	999.9
Ultra-Low-Sulfur Diesel	94.9	4.0	15.4	114.3	137.0	139.0	137.0	999.9
<b>Zone 3</b>								
Regular Unleaded	82.8	10.0	15.5	108.3	130.1	132.1	130.1	999.9
Mid-Grade Unleaded	85.8	10.0	15.5	111.3	133.5	135.6	133.5	999.9
Premium Unleaded	88.8	10.0	15.5	114.3	137.0	139.0	137.0	999.9
Ultra-Low-Sulfur Diesel	95.3	4.0	15.4	114.7	137.4	139.5	137.4	999.9
<b>Zone 4</b>								
Regular Unleaded	82.9	10.0	15.5	108.4	130.2	132.3	130.2	999.9
Mid-Grade Unleaded	85.9	10.0	15.5	111.4	133.6	135.7	133.6	999.9
Premium Unleaded	88.9	10.0	15.5	114.4	137.1	139.2	137.1	999.9
Ultra-Low-Sulfur Diesel	95.4	4.0	15.4	114.8	137.5	139.6	137.5	999.9
<b>Zone 5</b>								
Regular Unleaded	82.9	10.0	15.5	108.4	130.2	132.3	130.2	999.9
Mid-Grade Unleaded	85.9	10.0	15.5	111.4	133.6	135.7	133.6	999.9
Premium Unleaded	88.9	10.0	15.5	114.4	137.1	139.2	137.1	999.9
Ultra-Low-Sulfur Diesel	95.4	4.0	15.4	114.8	137.5	139.6	137.5	999.9
<b>Zone 6</b>								
Regular Unleaded	83.6	10.0	15.5	109.1	131.0	133.1	131.0	999.9
Mid-Grade Unleaded	86.6	10.0	15.5	112.1	134.4	136.5	134.4	999.9
Premium Unleaded	89.6	10.0	15.5	115.1	137.9	140.0	137.9	999.9
Ultra-Low-Sulfur Diesel	96.1	4.0	15.4	115.5	138.3	140.4	138.3	999.9