

Royal Gazette

Part II Regulations under the Regulations Act

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[Note: N.S. Reg. 140/2014, amendment to the *Family Court Rules* approved by the Governor in Council by Order in Council 2014-404 dated September 23, 2014, was published in a special issue of Volume 38 of the Royal Gazette Part II dated October 1, 2014.]

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. 136/2014

Made: September 11, 2014

Filed: September 12, 2014

Public Service Superannuation Plan Regulations

Order dated September 11, 2014
Amendment to regulations made by the Board of Directors of
Public Service Superannuation Plan Trustee Incorporated
pursuant to Sections 87 and 88 of the *Public Service Superannuation Act*

Public Service Superannuation Plan Trustee Incorporated
Amendment to the *Public Service Superannuation Plan Regulations*

I certify that the Board of Directors of Public Service Superannuation Plan Trustee Incorporated under Sections 87 and 88 of Schedule B to Chapter 4 of the Acts of 2012, the *Public Service Superannuation Act*, by resolution dated September 11, 2014, amended the *Public Service Superannuation Plan Regulations*, N.S. Reg. 66/2013, made by the Governor in Council by Order in Council 2013-104 dated March 28, 2013, to make changes to the list of prescribed employees and to create an appendix to list public authorities, in the manner set forth in the attached Schedule "A".

The amendments referred to in this certificate are effective on and after September 11, 2014.

Signed at Halifax, Halifax Regional Municipality, Nova Scotia, Sept. 11/14, 2014. [sic]

Sgd.: *Ron Smith*

Ron Smith, Chair

Public Service Superannuation Plan Trustee Incorporated

Schedule "A"

Amendment to the *Public Service Superannuation Plan Regulations*
made by the Board of Directors of Public Service Superannuation Plan Trustee Incorporated
under Sections 87 and 88 of Schedule "B" of Chapter 4 of the Acts of 2012,
the *Public Service Superannuation Act*

- 1 The definition of "public authority" in Section 2 of the *Public Service Superannuation Plan Regulations*, N.S. Reg. 66/2013, made by the Governor in Council by Order in Council 2013-104 dated March 28, 2013, is amended by adding "as set out in Appendix 3" immediately after "for the purposes of these regulations" in subclause (v).
- 2 Appendix 2: Prescribed Employers and Employees to the regulations is amended under the heading "Employees" by adding the following bulleted items to the end of the list:
 - any person employed by the *Property Valuation Services Corporation*, unless the terms of their employment exclude them from participation in the Pension Plan
 - any person appointed by the Governor in Council as Review Officer under Section 33 of the *Freedom of Information and Protection of Privacy Act*, unless the terms of their appointment specifically exclude them from participation in the Pension Plan
- 3 The regulations are further amended by adding Appendix 3 in the form attached.

Appendix 3: Public Authorities

The following corporations or bodies are determined by the Trustee to be public authorities for the purposes of these regulations:

- Property Valuation Services Corporation

N.S. Reg. 137/2014

Made: March 27, 2012

Filed: September 15, 2014

Addition to Schedule to Act

Order in Council 2012-93 dated March 27, 2012

Order made by the Governor in Council

pursuant to Section 8 of the

Mi'kmaq Education Act

The Governor in Council on the report and recommendation of the Minister of Education dated February 28, 2012, and pursuant to Section 8 of Chapter 17 of the Acts of 1998, the *Mi'kmaq Education Act*, is pleased to make an order adding the Paq'tnkek First Nation to the schedule of the *Mi'kmaq Education Act*, effective on and after April 1, 2012.

N.S. Reg. 138/2014

Made: September 11, 2014

Filed: September 15, 2014

Prescribed Petroleum Products Prices

Order dated September 11, 2014

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-14-38

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: Peter W. Gurnham, Q.C., Chair

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 September 10, 2014, are:

Grade 1 Regular gasoline	78.8¢ per litre
Ultra-low-sulfur diesel oil	80.8¢ per litre

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

Gasoline:	
Grade 1	78.8¢ per litre
Grade 2	81.8¢ per litre
Grade 3	84.8¢ per litre
Ultra-low-sulfur diesel oil	80.8¢ 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 0.6¢ per litre
Ultra-low-sulfur diesel oil:	minus 0.3¢ per litre

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., September 12, 2014.

Dated at Halifax, Nova Scotia, this 11th day of September, 2014.

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 September 12, 2014**

Nova Scotia Petroleum Price Schedule								
Petroleum Prices in Cents/Litre					Self-Service Pump Prices		Full-Service Pump Prices	
					(Pump Prices includes 15% HST)			
	Base Wholesale Price	Fed. Excise Tax	Prov. Tax	Wholesale Selling Price	Min	Max	Min	Max
Zone 1								
Regular Unleaded	85.3	10.0	15.5	110.8	132.9	135.0	132.9	999.9
Mid-Grade Unleaded	88.3	10.0	15.5	113.8	136.4	138.5	136.4	999.9
Premium Unleaded	91.3	10.0	15.5	116.8	139.8	141.9	139.8	999.9
Ultra-Low-Sulfur Diesel	87.6	4.0	15.4	107.0	128.6	130.6	128.6	999.9

Zone 2								
Regular Unleaded	85.8	10.0	15.5	111.3	133.5	135.6	133.5	999.9
Mid-Grade Unleaded	88.8	10.0	15.5	114.3	137.0	139.0	137.0	999.9
Premium Unleaded	91.8	10.0	15.5	117.3	140.4	142.5	140.4	999.9
Ultra-Low-Sulfur Diesel	88.1	4.0	15.4	107.5	129.1	131.2	129.1	999.9
Zone 3								
Regular Unleaded	86.2	10.0	15.5	111.7	134.0	136.0	134.0	999.9
Mid-Grade Unleaded	89.2	10.0	15.5	114.7	137.4	139.5	137.4	999.9
Premium Unleaded	92.2	10.0	15.5	117.7	140.9	142.9	140.9	999.9
Ultra-Low-Sulfur Diesel	88.5	4.0	15.4	107.9	129.6	131.7	129.6	999.9
Zone 4								
Regular Unleaded	86.3	10.0	15.5	111.8	134.1	136.2	134.1	999.9
Mid-Grade Unleaded	89.3	10.0	15.5	114.8	137.5	139.6	137.5	999.9
Premium Unleaded	92.3	10.0	15.5	117.8	141.0	143.1	141.0	999.9
Ultra-Low-Sulfur Diesel	88.6	4.0	15.4	108.0	129.7	131.8	129.7	999.9
Zone 5								
Regular Unleaded	86.3	10.0	15.5	111.8	134.1	136.2	134.1	999.9
Mid-Grade Unleaded	89.3	10.0	15.5	114.8	137.5	139.6	137.5	999.9
Premium Unleaded	92.3	10.0	15.5	117.8	141.0	143.1	141.0	999.9
Ultra-Low-Sulfur Diesel	88.6	4.0	15.4	108.0	129.7	131.8	129.7	999.9
Zone 6								
Regular Unleaded	87.0	10.0	15.5	112.5	134.9	137.0	134.9	999.9
Mid-Grade Unleaded	90.0	10.0	15.5	115.5	138.3	140.4	138.3	999.9
Premium Unleaded	93.0	10.0	15.5	118.5	141.8	143.9	141.8	999.9
Ultra-Low-Sulfur Diesel	89.3	4.0	15.4	108.7	130.5	132.6	130.5	999.9

N.S. Reg. 139/2014

Made: September 12, 2014

Filed: September 15, 2014

Pension Benefits Regulations

Order in Council 2014-398 dated September 12, 2014
Amendment to regulations made by the Governor in Council
pursuant to Section 105 of the *Pension Benefits Act*

The Governor in Council on the report and recommendation of the Minister of Finance and Treasury Board dated August 20, 2014, and pursuant to Section 105 of Chapter 340 of the Revised Statutes of Nova Scotia, 1989, the *Pension Benefits Act*, is pleased to amend the *Pension Benefits Regulations*, N.S. Reg. 164/2002, made by the Governor in Council by Order in Council 2002-607 dated December 20, 2002, to regulate the unlocking of certain pension funds in circumstances of financial hardship, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after September 12, 2014.

Schedule "A"

**Amendment to the *Pension Benefits Regulations*
made by the Governor in Council under Section 105 of Chapter 340
of the Revised Statutes of Nova Scotia, 1989,
the *Pension Benefits Act***

- 1 Section 84 of the *Pension Benefits Regulations*, N.S. Reg. 164/2002, made by the Governor in Council by Order in Council 2002-607 dated December 20, 2002, is amended by
- (a) striking out the period at the end of clause (l) and substituting a semi-colon; and
 - (b) adding the following clause immediately after clause (l):
 - (m) "rental default circumstance" means a circumstance of financial hardship as prescribed in clause 86(1)(aa).
- 2 (1) Subsection 86(1) of the regulations is amended by adding the following clause immediately after clause (a):
- (aa) the owner or the owner's spouse or common-law partner has received a written demand in respect of arrears in the payment of rent on the owner's principal residence, and the owner could face eviction if the debt remains unpaid;
- (2) Subsection 86(1) of the regulations is further amended by striking out "40%" and substituting "66 2/3%" in clause (c).
- (3) Subsection 86(3) of the regulations is amended by adding "or the rental default circumstance" immediately after "mortgage default circumstance".
- 3 Section 88 of the regulations is amended by adding the following subsection immediately after subsection (6):
- (6A)** In an application under a rental default circumstance, the owner must include a copy of the written demand in respect of the arrears in the payment of rent on the owner's principal residence, setting out the amount required to pay the rental arrears and all directly related enforcement costs and reinstate the tenancy.
- 4 (1) Section 93 of the regulations is amended by adding the following subsection immediately after subsection (1):
- (1A)** In an application under a rental default circumstance, the net amount may not exceed an amount sufficient to pay the rental arrears and all directly related enforcement costs and reinstate the tenancy.
- (2) Section 93 of the regulations is further amended by striking out "40%" in clause (3)(a) and substituting "50%".
- 5 The regulations are amended by adding the following Section immediately after Section 95:

Subsequent application related to rental default denied

95A The Superintendent must deny an owner's application under a rental default circumstance if the Superintendent has previously consented to an application from the owner under a rental default

circumstance and funds have been withdrawn from the owner's prescribed retirement savings arrangement under that previous application.

- 6 Section 8 of Schedule IV: Nova Scotia LIF Addendum to the regulations is amended by
- (a) striking out "40%" in clause (4)(a) and substituting "50%";
 - (b) striking out "40%" wherever it appears in subsection (5) and substituting "50%".

[Note: N.S. Reg. 140/2014, amendment to the *Family Court Rules* approved by the Governor in Council by Order in Council 2014-404 dated September 23, 2014, was published in a special issue of the Royal Gazette Part II dated October 1, 2014.]

N.S. Reg. 141/2014

Made: September 18, 2014

Filed: September 23, 2014

Prescribed Petroleum Products Prices

Order dated September 18, 2014
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-14-39

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, CA, 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 September 17, 2014, are:

Grade 1 Regular gasoline	76.7¢ per litre
Ultra-low-sulfur diesel oil	79.7¢ per litre

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

Gasoline:	
Grade 1	76.7¢ per litre
Grade 2	79.7¢ per litre
Grade 3	82.7¢ per litre
Ultra-low-sulfur diesel oil	79.7¢ 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 0.5¢ per litre
Ultra-low-sulfur diesel oil:	minus 0.7¢ per litre

And whereas a winter blending adjustment of plus 0.9¢ 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., September 19, 2014.

Dated at Halifax, Nova Scotia, this 18th day of September, 2014.

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 September 19, 2014**

Nova Scotia Petroleum Price Schedule								
Petroleum Prices in Cents/Litre					Self-Service Pump Prices		Full-Service Pump Prices	
					(Pump Prices includes 15% HST)			
	Base Wholesale Price	Fed. Excise Tax	Prov. Tax	Wholesale Selling Price	Min	Max	Min	Max
Zone 1								
Regular Unleaded	83.3	10.0	15.5	108.8	130.6	132.7	130.6	999.9
Mid-Grade Unleaded	86.3	10.0	15.5	111.8	134.1	136.2	134.1	999.9
Premium Unleaded	89.3	10.0	15.5	114.8	137.5	139.6	137.5	999.9
Ultra-Low-Sulfur Diesel	87.0	4.0	15.4	106.4	127.9	130.0	127.9	999.9
Zone 2								
Regular Unleaded	83.8	10.0	15.5	109.3	131.2	133.3	131.2	999.9
Mid-Grade Unleaded	86.8	10.0	15.5	112.3	134.7	136.7	134.7	999.9
Premium Unleaded	89.8	10.0	15.5	115.3	138.1	140.2	138.1	999.9
Ultra-Low-Sulfur Diesel	87.5	4.0	15.4	106.9	128.5	130.5	128.5	999.9

Zone 3								
Regular Unleaded	84.2	10.0	15.5	109.7	131.7	133.7	131.7	999.9
Mid-Grade Unleaded	87.2	10.0	15.5	112.7	135.1	137.2	135.1	999.9
Premium Unleaded	90.2	10.0	15.5	115.7	138.6	140.6	138.6	999.9
Ultra-Low-Sulfur Diesel	87.9	4.0	15.4	107.3	128.9	131.0	128.9	999.9
Zone 4								
Regular Unleaded	84.3	10.0	15.5	109.8	131.8	133.9	131.8	999.9
Mid-Grade Unleaded	87.3	10.0	15.5	112.8	135.2	137.3	135.2	999.9
Premium Unleaded	90.3	10.0	15.5	115.8	138.7	140.8	138.7	999.9
Ultra-Low-Sulfur Diesel	88.0	4.0	15.4	107.4	129.0	131.1	129.0	999.9
Zone 5								
Regular Unleaded	84.3	10.0	15.5	109.8	131.8	133.9	131.8	999.9
Mid-Grade Unleaded	87.3	10.0	15.5	112.8	135.2	137.3	135.2	999.9
Premium Unleaded	90.3	10.0	15.5	115.8	138.7	140.8	138.7	999.9
Ultra-Low-Sulfur Diesel	88.0	4.0	15.4	107.4	129.0	131.1	129.0	999.9
Zone 6								
Regular Unleaded	85.0	10.0	15.5	110.5	132.6	134.7	132.6	999.9
Mid-Grade Unleaded	88.0	10.0	15.5	113.5	136.0	138.1	136.0	999.9
Premium Unleaded	91.0	10.0	15.5	116.5	139.5	141.6	139.5	999.9
Ultra-Low-Sulfur Diesel	88.7	4.0	15.4	108.1	129.8	131.9	129.8	999.9

N.S. Reg. 142/2014

Made: September 23, 2014

Filed: September 23, 2014

Proclamation, S. 12, S.N.S. 2013, c. 41

Order in Council 2014-404 dated September 23, 2014

Proclamation made by the Governor in Council
pursuant to Section 12 of*An Act to Amend Chapter 7 of the Acts of 1996, the Occupational Health and Safety Act*

The Governor in Council on the report and recommendation of the Minister of Labour and Advanced Education dated August 26, 2014, and pursuant to Section 12 of Chapter 41 of the Acts of 2013, *An Act to Amend Chapter 7 of the Acts of 1996, the Occupational Health and Safety Act*, is pleased to order and declare by proclamation that Chapter 41 of the Acts of 2013, *An Act to Amend Chapter 7 of the Acts of 1996, the Occupational Health and Safety Act*, do come into force on and not before October 1, 2014.

PROVINCE OF NOVA SCOTIA

sgd: **J. J. Grant**

G/S

ELIZABETH THE SECOND, by the Grace of God,
of the United Kingdom, Canada and Her Other
Realms and Territories, Queen, Head of the
Commonwealth, Defender of the Faith.

TO ALL TO WHOM THESE PRESENTS SHALL COME, OR WHOM THE SAME MAY IN ANY WISE
CONCERN,

GREETING:

A PROCLAMATION

WHEREAS in and by Section 12 of Chapter 41 of the Acts of 2013, *An Act to Amend Chapter 7 of the Acts of 1996, the Occupational Health and Safety Act*, it is enacted as follows:

- 12** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

AND WHEREAS it is deemed expedient that Chapter 41 of the Acts of 2013, *An Act to Amend Chapter 7 of the Acts of 1996, the Occupational Health and Safety Act*, do come into force on and not before October 1, 2014;

NOW KNOW YE THAT WE, by and with the advice of the Executive Council of Nova Scotia, do by this Our Proclamation order and declare that Chapter 41 of the Acts of 2013, *An Act to Amend Chapter 7 of the Acts of 1996, the Occupational Health and Safety Act*, do come into force on and not before October 1, 2014, of which all persons concerned are to take notice and govern themselves accordingly.

IN TESTIMONY WHEREOF We have caused these our Letters to be made Patent and the Great Seal of Nova Scotia to be hereunto affixed.

WITNESS, Our Trusty and Well Beloved His Honour Brigadier-General, the Honourable J. J. Grant (Retired), Lieutenant Governor of the Province of Nova Scotia.

AT Our Government House in the Halifax Regional Municipality, this 23rd day of September in the year of Our Lord two thousand and fourteen and in the sixty-third year of Our Reign.

BY COMMAND:

sgd: Lena Metlege Diab
Provincial Secretary
Minister of Justice and Attorney General

N.S. Reg. 143/2014 to 144/2014

Made: September 23, 2014

Filed: September 23, 2014

Occupational Health and Safety Administrative Penalty Regulations;
Occupational Health and Safety Appeal Panel Regulations;
Underground Mining Regulations;
Workplace Health and Safety Regulations

Order in Council 2014-405 dated September 23, 2014
Repeal of regulations and amendment to regulations made by the Governor in Council pursuant to Section 82 of the *Occupational Health and Safety Act*

The Governor in Council on the report and recommendation of the Minister of Labour and Advanced Education dated August 26, 2014, and pursuant to Section 82 of Chapter 7 of the Acts of 1996, the *Occupational Health*

and Safety Act, is pleased, effective on and after October 1, 2014, to:

- (a) repeal the *Occupational Health and Safety Administrative Penalties Regulations*, N.S. Reg. 291/2009, made by the Governor in Council by Order in Council 2009-406 dated September 29, 2009;
- (b) repeal the *Occupational Health and Safety Appeal Panel Regulations*, N.S. Reg. 25/97, made by the Governor in Council by Order in Council 97-135 dated February 25, 1997;
- (c) amend the *Workplace Health and Safety Regulations*, N.S. Reg. 52/2013, made by the Governor in Council by Order in Council 2013-65 dated March 12, 2013, to add provisions respecting appeals and administrative penalties in the manner set forth in Schedule “A” attached to and forming part of the report and recommendation; and
- (d) amend the *Underground Mining Regulations*, N.S. Reg. 296/2008, made by the Governor in Council by Order in Council 2008-306 dated June 3, 2008, to reflect recent amendments to the Act respecting appeals in the manner set forth in Schedule “B” attached to and forming part of the report and recommendation.

N.S. Reg. 143/2014

Workplace Health and Safety Regulations

Schedule “A”

Amendment to the *Workplace Health and Safety Regulations* made by the Governor in Council under Section 82 of Chapter 7 of the Acts of 1996, the *Occupational Health and Safety Act*

The *Workplace Health and Safety Regulations*, N.S. Reg. 52/2013, made by the Governor in Council by Order in Council 2013-65 dated March 12, 2013, are amended by striking out the placeholder headings for Parts 30 and 31 and adding the following Parts immediately after Part 29:

Part 30: Reviews and Appeals

Definition for Part 30

30.1 In this Part, “appeal” means an appeal of an order or decision filed under Section 69 of the Act or an appeal of an administrative penalty filed under Part 31: Administrative Penalties.

Application of Part 30

30.2 This Part applies with respect to all of the following:

- (a) all orders and decisions referred to in Sections 67 and 69 of the Act;
- (b) all administrative penalties imposed under Part 31: Administrative Penalties.

Time period for Director to review officer’s order or decision

30.3 A review or alteration by the Director of an order or decision of an officer under Section 67 of the Act or of an administrative penalty under Section 31.8 may be carried out

- (a) for a matter that is not appealed, at any time within the 30 days after the date the order, decision or administrative penalty is served on the recipient;

- (b) for a matter that is appealed, no later than 10 days after the Director is notified by the Board under subsection 69(5) of the Act or subsection 31.13(2), as the case may be, that a notice of appeal of the order, decision or administrative penalty has been filed.

Information required for notice of appeal

30.4 In addition to the information required by subsection 69(3) of the Act, a notice of appeal must be in writing and must include all of the following information about the person appealing:

- (a) name;
- (b) address;
- (c) telephone number.

Onus on appellant

30.5 In any appeal, the onus is on the appellant to establish, on a balance of probabilities, that the order, decision or administrative penalty should not be confirmed.

Technical irregularities and defects

- 30.6** (1) No proceedings before the Board are invalid by reason of any defect in form or any technical irregularity.
- (2) The Board must not revoke an order, decision or administrative penalty because of a defect in form or a technical irregularity, including a defect in the information provided as required by Section 31.4 in a notice of administrative penalty, unless the person appealing the order, decision or administrative penalty establishes on a balance of probabilities that they were prejudiced by the defect or technical irregularity and the Board cannot cure the prejudice through an extension of time or any other procedural ruling that the Board could make.

Record of decision

- 30.7** (1) For each appeal hearing it conducts, the Board must maintain a record of its decision-making process to submit to the court in the event of an application for review of a decision of the Board under subsection 70(2) of the Act.
- (2) A record of the Board's decision-making process must consist of all of the following:
- (a) the Board's decision;
 - (b) all documents submitted to the Board with respect to the Board's decision; and
 - (c) all documents produced by the Board with respect to the Board's decision.
- (3) For greater certainty, notes made personally by any member of the Board in a hearing or in related preparations or deliberations are not part of the record of the Board's decision-making process for the purposes of this Section.

Part 31: Administrative Penalties**Definitions for Part 31**

31.1 In this Part,

“administrative penalty” means an administrative penalty imposed under Section 31.2;

“former regulations” means the *Occupational Health and Safety Administrative Penalties Regulations*, N.S. Reg. 291/2009;

“presented for service”, in relation to either of the following documents, means given to an agent in order for the agent, on behalf of an officer, to serve the document on a person by a form of delivery set out in clause 40(2)(a) or (b) of the Act:

- (i) a notice of administrative penalty being served in accordance with subsection 31.3(1),
- (ii) a notice of an extension of the time period for service of a notice of administrative penalty being served in accordance with subsection 31.3(3);

“workplace inspection report” means a written report of a workplace inspection conducted by an officer.

Officer may impose administrative penalty

- 31.2 (1)** An officer may impose an administrative penalty on a person who has contravened a provision of the Act or a regulation made under the Act and has been issued an order with respect to the contravention.
- (2)** An administrative penalty is imposed on a person by serving the person or having the person served with a notice of administrative penalty.

Time period for serving notice of administrative penalty

- 31.3 (1)** Except as permitted in subsection (2), a notice of administrative penalty must be personally served by an officer or presented for service no later than 14 days after the date the written order is issued respecting the contravention for which the administrative penalty is being imposed.
- (2)** If the Director considers it necessary to extend the time period for imposing an administrative penalty on a person, the Director must notify the person that an administrative penalty is being considered and may be imposed at a later date.
- (3)** A notice of an extension under subsection (2) must be personally served by an officer or presented for service no later than 14 days after the date the written order is issued respecting the contravention for which the administrative penalty is being considered.

Content of notice of administrative penalty

- 31.4 (1)** A notice of administrative penalty must be in writing and must contain all of the following information:
- (a) the name of the person on whom the administrative penalty is imposed;
 - (b) the provision of the Act or the regulation made under the Act that was contravened;
 - (c) the substance of the contravention;
 - (d) the identifying number assigned to the order and workplace inspection report respecting the contravention;
 - (e) the amount of the administrative penalty;
 - (f) when and how the administrative penalty must be paid;

- (g) the process for filing an appeal of the administrative penalty.
- (2) Further particulars that support the substance of a contravention as indicated in accordance with clause (1)(c) may be set out in either or both of
 - (a) an order respecting the contravention; or
 - (b) a workplace inspection report respecting the contravention.

Amount of administrative penalty

31.5 (1) The amount of an administrative penalty is as set out in the following table:

Person On Whom Administrative Penalty Imposed	Administrative Penalty		
	1st	2nd	3rd or subsequent
employer, contractor, constructor, supplier, provider of occupational health or safety service, architect or professional engineer	\$500	\$1000	\$2000
employee who has supervision responsibilities, owner or self-employed person	\$250	\$500	\$1000
employee	\$100	\$200	\$500

- (2) Subject to subsection (3), in determining whether an administrative penalty for a contravention is a 2nd, 3rd or subsequent penalty for the purpose of subsection (1), only an administrative penalty that was imposed within the 3-year period immediately before the date of the contravention is counted as a previous administrative penalty.
- (3) The 3-year period referred to in subsection (2) must not include any period of time earlier than the date this Part comes into force.

Administrative penalty imposed for each day

31.6 An officer may impose an administrative penalty for each day a contravention continues.

Administrative penalty does not relieve person from duty to comply

31.7 The imposition of an administrative penalty does not relieve a person from their duty to comply with the order respecting the contravention for which the administrative penalty was imposed.

Director may review administrative penalty

31.8 (1) Subject to the time limit in Section 30.3, the Director may, on the Director’s own motion, review an administrative penalty and do any of the following after consulting with the officer who imposed the administrative penalty:

- (a) amend the administrative penalty for any reason, including any of the following:
 - (i) to correct a defect in form or a technical irregularity,
 - (ii) to correct a reference to a provision of the Act or a regulation made under the Act;

- (b) substitute an administrative penalty in a lesser amount as set out in the table in subsection 31.5(1), if the Director considers that an administrative penalty is warranted but disagrees as to whether the administrative penalty that was imposed is the 2nd, 3rd or subsequent penalty, as the case may be;
 - (c) revoke the administrative penalty.
- (2) On amending, substituting or revoking an administrative penalty, the Director must
- (a) serve notice of the amendment, substitution or revocation on the person ~~to~~ [on] whom the administrative penalty was imposed; and
 - (b) if the Director has been notified by the Board as referred to in clause 30.3(b) that a notice of appeal of the administrative penalty has been filed, provide the Board with a copy of the notice served on the person under clause (a).

Paying administrative penalty

- 31.9** (1) Except as provided in subsection (2), a person who is served a notice of administrative penalty must pay the administrative penalty no later than 30 days after the date the notice is served.
- (2) An administrative penalty that is appealed is not required to be paid unless the Board decides that an administrative penalty must be paid, and in that case it must be paid no later than 30 days after the date of the Board's decision.

Failure to pay administrative penalty

31.10 If an administrative penalty is not paid by the applicable deadline in Section 31.9, the amount of the administrative penalty is a debt due to the Crown in right of Nova Scotia.

Person required to pay administrative penalty not charged with offence

31.11 A person who is required to pay an administrative penalty for a contravention must not be charged with an offence for the same contravention.

Collected penalty funds used for safety initiatives

31.12 All funds from penalties collected under this Part must be deposited into the Occupational Health and Safety Public Education Trust Fund and used for the purpose of occupational health and safety initiatives, including public education.

Appealing administrative penalty

- 31.13** (1) A person on whom an administrative penalty is imposed may appeal the administrative penalty by filing a notice of appeal with the Board no later than 30 days after the date the person is served with the notice of administrative penalty.
- (2) The Board must notify the Director in writing that a notice of appeal has been filed within a reasonable time after receiving the notice and before beginning the appeal hearing.

Extension for filing appeal of order when administrative penalty imposed

31.14 (1) If a person is served with a notice of administrative penalty, the time period set out in subsection 69(2A) of the Act for filing a notice of appeal of the order respecting the contravention for which the administrative penalty is imposed is extended to no later than 30 days after the date the person is served with the notice of administrative penalty.

- (2) The extension under subsection (1) for filing a notice of appeal of an order also applies if the administrative penalty is imposed after a time extension by the Director under subsection 31.3(2), unless the order has already been appealed and a decision has been rendered by the Board.

Appealing administrative penalty after amendment or substitution by Director

- 31.15** (1) If an administrative penalty is appealed to the Board and the Director subsequently amends or substitutes an administrative penalty, the appeal will proceed as an appeal of the Director's decision.
- (2) The appellant in an appeal described in subsection (1) may amend their notice of appeal if permitted to do so by the Board, and any amended notice of appeal must be submitted in the form and manner required by the Board.
 - (3) If an administrative penalty has not been appealed and the Director amends or substitutes an administrative penalty, the person on whom the amended or substituted penalty is imposed may appeal the administrative penalty as amended or substituted by the Director by filing a notice of appeal with the Board no later than 30 days after the date the person is served with notice of the amended or substituted administrative penalty.
 - (4) Subsection 31.13(2) and Sections 31.16 to 31.21 apply with the necessary changes in detail to an appeal under subsection (3) of an administrative penalty that has been amended or substituted by the Director.

Notice of appeal of administrative penalty

31.16 A notice of appeal of an administrative penalty must be in writing and must include or be accompanied by all of the following:

- (a) the same information as required by Section 30.4 for a notice of appeal under Part 30;
- (b) a copy of the notice of administrative penalty that is being appealed;
- (c) the grounds of the appeal;
- (d) the relief requested.

Board must conduct hearing

- 31.17** (1) The Board must conduct a hearing of an appeal of an administrative penalty, either orally or through written submissions.
- (2) The Director is a party to any appeal heard under this Part.

Power of Board on appeal

31.18 The Board must do 1 of the following on an appeal of an administrative penalty:

- (a) confirm the administrative penalty;
- (b) revoke the administrative penalty;
- (c) substitute an administrative penalty in a lesser amount as set out in the table in subsection 31.5(1), if the Board considers that an administrative penalty is warranted but disagrees as to whether the administrative penalty that was imposed is the 2nd, 3rd or subsequent penalty, as the case may be.

Administrative penalty appeal must be heard with appeal of order

31.19 If a person appeals both an order and an administrative penalty respecting the contravention for which the order was issued, the Board must hear the appeals together, but must render separate decisions for the order and the administrative penalty.

Board must provide copy of decision

31.20 The Board must provide a copy of its decision in an appeal of an administrative penalty to the person who appealed the administrative penalty and to the Director.

Application of Part 30: Appeals to appeal of administrative penalty

31.21 Part 30: Appeals applies to an appeal of an administrative penalty under this Part.

Transition for administrative penalty appeals

31.22 An appeal of an administrative penalty must be heard and determined in accordance with the former regulations in either of the following circumstances:

- (a) the appeal was initiated under the former regulations before this Part came into force and the appeal was not completed before this Part came into force;
- (b) the appeal is initiated under the former regulations after the coming into force of this Part.

N.S. Reg. 144/2014

Underground Mining Regulations

Schedule "B"

**Amendment to the *Underground Mining Regulations*
made by the Governor in Council under Section 82
of Chapter 7 of the Acts of 1996,
the *Occupational Health and Safety Act***

The *Underground Mining Regulations*, N.S. Reg. 296/2008, made by the Governor in Council by Order in Council 2008-306 dated June 3, 2008, are amended by repealing Section 29 and substituting the following Section:

- 29** (1) In this Section, "appeal" means file an appeal with the Board under Section 69 of the Act.
- (2) In addition to any order or decision referred to in clauses 69(1)(a) to (d) of the Act, an aggrieved person at a subsea coal mine may appeal a decision of the Director to issue or not issue an approval under Section 35.

