

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. 153/2010

Made: September 23, 2010

Approved: October 8, 2010

Filed: October 15, 2010

Bulk Haulage Regulations

Order dated October 8, 2010

made by the Dairy Farmers of Nova Scotia and approved by the Natural Products Marketing Council pursuant to clause 15(1)(b) of the *Dairy Industry Act*

Dairy Farmers of Nova Scotia

The Dairy Farmers of Nova Scotia, pursuant to clause 15(1)(b) of Chapter 24 of the Acts of 2000, the *Dairy Industry Act*, at a meeting held on September 23, 2010, amended the *Bulk Haulage Regulations* [, N.S. Reg. 23/2003,] in the manner set out attached to this certificate as Schedule "A", effective on and after November 1, 2010.

Dated and signed at Truro, Nova Scotia October 12, 2010.

Sgd: *B. Cameron*
Brian Cameron
General Manager
Dairy Farmers of Nova Scotia

Approved by the Natural Products Marketing Council at Truro, Nova Scotia, October 8, 2010.

Sgd: *E. A. Crouse*
Elizabeth A. Crouse, P. Ag.
General Manager
Natural Products Marketing Council

Schedule "A"

**Amendment to the *Bulk Haulage Regulations*
made by the Dairy Farmers of Nova Scotia
pursuant to clause 15(1)(b) of Chapter 24 of the Acts of 2000,
the *Dairy Industry Act***

Clause 7(a) of the *Bulk Haulage Regulations* [, N.S. Reg. 23/2003,] made by the Dairy Farmers of Nova Scotia and approved by the Natural Products Marketing Council on August 13, 2002, is amended by

- (a) striking out "\$2.380" directly opposite "Farmers Co-operative Dairy Limited" and substituting "\$2.370";
- (b) striking out "\$3.360" directly opposite "Scotsburn Co-operative Services Limited" and substituting "\$3.340";
- (c) striking out "\$1.630" directly opposite "Fisher Transport Limited" and substituting "\$1.620";
- (d) striking out "\$2.590" directly opposite "Winterthur Farm–Rudolph Burghardt" and substituting "\$2.570";
- (e) striking out "\$1.800" directly opposite "Cook's Dairy Farm Limited" and substituting "\$1.790".

N.S. Reg. 154/2010

Made: October 12, 2010

Filed: October 18, 2010

Proclamation, S. 6, S.N.S. 2010, c. 14

Order in Council 2010-380 dated October 12, 2010

Proclamation made by the Governor in Council

pursuant to Section 6 of

An Act to Amend Chapter 25 of the Acts of 2004, the Electricity Act

The Governor in Council on the report and recommendation of the Minister of Energy dated September 22, 2010, and pursuant to Section 6 of Chapter 14 of the Acts of 2010, ~~the~~ [*An Act to Amend Chapter 25 of the Acts of 2004, the*] *Electricity Act*, is pleased to order and declare by proclamation that Chapter 14 of the Acts of 2010, ~~the~~ [*An Act to Amend Chapter 25 of the Acts of 2004, the*] *Electricity Act*, do come into force on and not before October 12, 2010.

PROVINCE OF NOVA SCOTIA

sgd: **Mayann E. Francis**

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 6 of Chapter 14 of the Acts of 2010, ~~the~~ [*An Act to Amend Chapter 25 of the Acts of 2004, the*] *Electricity Act*, it is enacted as follows:

- 6** 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 14 of the Acts of 2010, ~~the~~ [*An Act to Amend Chapter 25 of the Acts of 2004, the*] *Electricity Act*, do come into force on and not before October 12, 2010;

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 14 of the Acts of 2010, ~~the~~ [*An Act to Amend Chapter 25 of the Acts of 2004, the*] *Electricity Act*, do come into force on and not before October 12, 2010, 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 Her Honour
the Honourable Mayann E. Francis, Lieutenant
Governor of the Province of Nova Scotia.

AT Our Government House in the Halifax Regional Municipality, this 12th day of October in the year of Our Lord two thousand and ten and in the fifty-ninth year of Our Reign.

BY COMMAND:

sgd: Ross Landry
Provincial Secretary
Minister of Justice and Attorney General

N.S. Reg. 155/2010

Made: October 12, 2010

Filed: October 18, 2010

Renewable Energy Standard Regulations and
Renewable Electricity Regulations

Order in Council 2010-381 dated October 12, 2010
Repeal of regulations and 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 10, 2010, and pursuant to Section 5 of Chapter 25 of the Acts of 2004, the *Electricity Act*, is pleased, effective on and after October 12, 2010, to

- (a) repeal the *Renewable Energy Standard Regulations*, N.S. Reg. 35/2007, made by the Governor in Council by Order in Council 2007-42 dated January 22, 2007; and
- (b) make regulations respecting renewable electricity in the form set forth in Schedule “A” attached to and forming part of the report and recommendation.

Schedule “A”

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

Interpretation

Citation

1 These regulations may be cited as the *Renewable Electricity Regulations*.

Definitions for these regulations

2 In these regulations,

“Act” means the *Electricity Act*;

“distribution system” means a system for conveying electricity at voltages of less than 69 kV;

“electricity standard approval” means an approval issued under Section 14 to approve a generation facility as a renewable low-impact electricity generation facility for the purposes of the renewable electricity standards;

“feed-in tariff program” means the program established by Section 4A of the Act under which a public utility permits a generator to connect an electricity generation facility to the public utility’s electrical grid;

“feed-in tariff approval” means an approval issued under Section 28 for an electricity generation facility that qualifies for the feed-in tariff program;

“heritage renewable electricity” means all electricity that was contracted for or supplied by a load-serving entity in the Province before January 1, 2002, and that, in the opinion of the Minister, is generated from renewable sources;

“load-serving entity” means any one of the following:

- (i) NSPI,
- (ii) a municipal electric utility that purchases any or all of its electricity supply from a supplier other than NSPI,
- (iii) an independent power producer that exports electricity;

“municipal electric utility” means any of the following:

- (i) the electrical utility for
 - (A) the Town of Antigonish,
 - (B) the Town of Berwick,
 - (C) the Town of Canso,
 - (D) the Town of Lunenburg, or
 - (E) the Town of Mahone Bay,
- (ii) the Electric Light Commissioners for Riverport, in the County of Lunenburg;

“NSPI” means Nova Scotia Power Incorporated;

“primary forest biomass” means biomass produced from primary forest products harvested in the Province and first used as a fuel;

“primary forest products” means primary forest products as defined in the *Forests Act*;

“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 sources;

“renewable electricity administrator” means the renewable electricity administrator appointed under subsection 4B(1) of the Act to conduct a procurement of renewable low-impact electricity;

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

“renewable low-impact electricity generation facility” means a facility in the Province that generates renewable low-impact electricity and has received all approvals and permits required under these regulations or any other applicable enactment;

“renewable low-impact electricity generator” means a person who owns or operates a renewable low-impact electricity generation facility in the Province;

“run-of-the-river hydroelectric electricity” means electricity that is generated from flowing water in a river with minimal environmental effect on the river course and that may include the use of a dam structure;

“transmission system” means a system for conveying electricity at voltages of 69 kV or more;

“university” means a designated university within the meaning of the *University Foundations Act*;

“untreated organic material” means organic material that has not been treated or organic material that has been treated in conformance with a government policy or regulation respecting the material.

Definitions for the Act and these regulations

3 (1) In the Act and these regulations,

“biomass” means untreated organic material and includes material that has been processed so as to change its size, shape, density, moisture level, or degree of purity, and secondary waste by-products from its processing, but does not include material for which other diversion methods are viable or the treated by-products of manufacturing processes;

“community economic-development corporation” means a community economic-development corporation as defined in the *Equity Tax Credit Act*;

“cooperative” means a cooperative incorporated under the *Co-operative Associations Act*;

“developmental tidal array” means a generation facility that consists of 1 or more tidal generation devices with a capacity of greater than .5 MW each and that is capable of being interconnected with the electrical grid through a transmission system; and

“independent power producer” means a renewable low-impact electricity generator

- (i) of which no more than 49% of the securities entitling the holders to vote for the election of its directors are held by a public utility in combination with any affiliate of the public utility, and
- (ii) that sells electricity
 - (A) in the Province to public utilities for retail sales to the utilities’ customers, or
 - (B) for export outside of the Province;

“municipality” means a regional municipality, a town or a county or district municipality;

“not-for-profit body corporate” means a corporation operated on the basis that no member, officer, director or employee of the corporation may share in any operating surplus of the corporation;

“renewable low-impact electricity” means electricity produced from any of the following:

- (i) solar energy,
- (ii) wind energy,
- (iii) run-of-the-river hydroelectric energy,
- (iv) ocean-powered energy,
- (v) tidal energy,
- (vi) wave energy,
- (vii) biomass that has been harvested in a sustainable manner,
- (viii) landfill gas,
- (ix) any resource that, in the opinion of the Minister and consistent with Canadian standards, is able to be replenished through natural processes or through sustainable management practices so that the resource is not depleted at current levels of consumption;

“small-scale in-stream tidal” means a tidal generation device with a capacity of .5 MW or less that is capable of being interconnected with the electrical grid through a distribution system.

- (2) For the purposes of subclause (i) of the definition of “independent power producer” in subsection (1),
- (a) a corporation is deemed to be an affiliate of another corporation if 1 of them is the subsidiary of the other or if both are subsidiaries of the same corporation or if each of them is controlled by the same person;
 - (b) a corporation is deemed to be controlled by another person or by 2 or more corporations if
 - (i) voting securities of the 1st-mentioned corporation carrying more than 50% of the votes for the election of directors are held, other than by way of security only, by or for the benefit of the other person or by or for the benefit of the other corporations, and
 - (ii) the votes carried by those securities are entitled, if exercised, to elect a majority of the directors of the 1st-mentioned corporation; and
 - (c) a corporation is deemed to be a subsidiary of another corporation if
 - (i) it is controlled by
 - (A) that other, or
 - (B) that other and 1 or more corporation, each of which is controlled by that other, or
 - (C) 2 or more corporations, each of which is controlled by that other, or
 - (ii) it is a subsidiary of a corporation that is that other’s subsidiary.

Renewable Electricity Standards

Renewable electricity standard 2011

- 4 (1) In each of the calendar years 2011 and 2012, each load-serving entity must supply its customers with renewable low-impact electricity produced by renewable low-impact electricity generation facilities operated by independent power producers in an amount equal to or greater than 5% of its total sales for that year.
- (2) 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 at least 5% of that non-NSPI electricity supply is supplied by a renewable low-impact electricity generator.

Renewable electricity standard 2013

- 5 (1) In each of the calendar years 2013 and 2014, each load-serving entity must supply its customers with renewable low-impact electricity produced by renewable low-impact electricity generation facilities in an amount equal to or greater than 10% of its total sales for that year.
- (2) Each load-serving entity must meet the renewable electricity standard in subsection (1) as follows:
- (a) by continuing to supply 5% of its total annual sales from independent power producers; and
 - (b) by acquiring the additional renewable low-impact electricity required to meet the standard from either independent power producers or from its own renewable low-impact electricity generation facilities.
- (3) 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 at least 10% of that non-NSPI electricity supply is supplied by a renewable low-impact electricity generator.

Renewable electricity standard 2015

- 6 (1) Each year beginning with the calendar year 2015, each load-serving entity must supply its customers with renewable electricity in an amount equal to or greater than 25% of its total sales for that year.
- (2) Except as provided in clause (4)(f), the renewable electricity referred to in subsection (1) must be produced by a renewable electricity generation facility.
- (3) To meet the renewable electricity standard in subsection (1), NSPI must
- (a) continue to supply 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.
- (4) In addition to the requirements in subsection (1), to meet the renewable electricity standard in subsection (1), NSPI may do one or a combination of any of the following:
- (a) generate no more than 150 GWh from co-firing no more than 150 000 dry metric tonnes of biomass from forest products at its generation facilities;
 - (b) use the contribution of any GWhs acquired under the feed-in tariff program;
 - (c) use the contribution from renewable low-impact electricity generating facilities that it owns or operates;

(f)* use other sources of renewable electricity.

[*Clause lettering as in original.]

- (5) 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 25% of that non-NSPI electricity supply is renewable electricity.

Shortfalls

- 7 (1) If NSPI is of the opinion that it may be unable to meet a renewable electricity standard because of the inability of independent power producers to provide contracted electricity supplies at the contracted times, NSPI must supply sufficient renewable electricity from other sources to make up the shortfall for a period not to exceed 12 months.
- (2) If, on application by NSPI, the Minister is of the opinion that NSPI will be unable to meet a renewable electricity standard as described in subsection (1) for a period longer than 12 months, the Minister may permit NSPI to supply sufficient renewable electricity from other sources to make up the shortfall on any terms and conditions that the Minister determines.

Forest biomass cap

- 8 (1) No more than 500 000 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 may be used to attain any renewable electricity standard.
- (2) For the purposes of a renewable low-impact electricity generation facility that uses primary forest biomass, only the amount of electricity the Minister determines is generated from the use of primary forest biomass as permitted by subsection (1) qualifies for any renewable electricity standard.

Minister's determination

- 9 For each calendar year starting with the year 2011, the Minister must determine, for each load-serving entity,
- (a) its total electricity sales;
 - (b) the total amount of renewable low-impact electricity that it produced; and
 - (c) the proportion of its total supply of renewable low-impact electricity that was produced by independent power producers.

Qualifying for renewable electricity standards

- 10 (1) Electricity purchased by a public utility under the feed-in tariff program qualifies for any renewable electricity standard.
- (2) Any person other than a person who has been issued a feed-in tariff approval may apply to the Minister for an electricity standard approval.

Applying for electricity standard approval

- 11 An application for an electricity standard approval must be
- (a) submitted to the Minister in a form required by the Minister; and
 - (b) completed and signed by an authorized signatory of the applicant.

Incomplete application for electricity standard approval

- 12** (1) If an application for an electricity standard approval is not complete or additional information is required, the Minister must notify the applicant in writing no later than 90 days after receipt of the application and request the information necessary to make the application complete.
- (2) If the information requested under subsection (1) is not provided by the applicant within 90 days of the request, the Minister may reject the application and, if so, must immediately notify the applicant in writing that the application has been rejected.

Criteria for approval of application for electricity standard approval

- 13** (1) The Minister must approve an application for an electricity standard approval if the generation facility
- (a) is to be located in the Province, including the marine waters in the Province;
 - (b) will produce renewable low-impact electricity; and
 - (c) if it was constructed before December 31, 2001, it has increased its output since December 31, 2001,
 - (i) by having expanded or through technology upgrades, or
 - (ii) by having undergone a major rebuild in lieu of retirement.
- (2) For a facility described in clause (1)(c), only the output that exceeds the capacity of the facility before the expansion, upgrade or major rebuild qualifies for the 2011 and 2013 electricity standards in Sections 4 and 5.

Issuance of electricity standard approval

- 14** On approving an application for an electricity standard approval, the Minister must issue the applicant an electricity standard approval subject to any terms and conditions that the Minister determines are appropriate.

Minister's approval required to transfer electricity standard approval

- 15** An electricity standard approval must not be transferred without the prior written approval of the Minister.

Approved facility must continue to meet requirements

- 16** A renewable low-impact electricity generation facility that is issued an electricity standard approval must meet all of the following requirements:
- (a) it must continue to meet the requirements of these regulations;
 - (b) its electricity sales must not exceed its electricity production;
 - (c) if the electricity is to qualify for a renewable electricity standard, all emission credits or allowances arising from the use of renewable sources for electricity produced by the facility and sold to a public utility must be transferred or assigned to the public utility purchasing the electricity.

Transitional

- 17** A certification issued under Section 7 of the *Renewable Energy Standard Regulations* made under the Act is continued as an electricity standard approval.

Feed-in Tariff Program

Tariffs to be set by Board

- 18** (1) For the purposes of clause 4A(7)(e) of the Act, a run-of-the-river hydroelectricity generation facility is a class of generation facility to which a tariff applies.
- (2) Subject to subsections (3) and (4), the Board must set a tariff for all of the following classes of electricity generation facility:
- (a) all of the following, as required by clauses 4A(7)(a) to (d) of the Act:
 - (i) wind power,
 - (ii) biomass,
 - (iii) small-scale in-stream tidal arrays,
 - (iv) developmental tidal arrays;
 - (b) run-of-the-river hydroelectricity.
- (3) The Board must set separate tariffs for wind power with a capacity greater than 50 kW and wind power with a capacity of 50 kW or less.
- (4) The tariff for biomass must apply only to the electricity produced from a combined heat and power plant.

Setting community feed-in tariff

- 19** (1) In this Section and in Section 20, “community feed-in tariff” means a tariff set by the Board for any class of generation facility referred to in Section 18 except for a developmental tidal array.
- (2) In setting a community feed-in tariff, the Board must determine, for each class of generation facility, the cost of the physical assets of a facility and may make allowances for any of the following matters:
- (a) depreciation;
 - (b) cost of labour and supervision;
 - (c) necessary working capital;
 - (d) organization expenses;
 - (e) overhead costs for engineering, superintendence, legal services, taxes and interest during planning and construction, and similar matters not included in the cost of the physical assets;
 - (f) costs in whole or in part of land acquired in reasonable anticipation of future requirements;
 - (g) costs to interconnect the generation facility with the electrical grid;
 - (h) return on investment;
 - (i) additional matters that the Board considers appropriate.

Community feed-in tariff qualifications

- 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 qualifies as a generator that may participate in the feed-in tariff program:
- (a) a university
 - (b) a wholly owned subsidiary of a municipality;
- (2)** To qualify for a community feed-in tariff, a generation facility must be owned by one or a combination of any of the following:
- (a) a municipality or a wholly owned subsidiary of a municipality;
 - (b) a Mi'kmaq [Mi'kmaw] band council;
 - (c) a cooperative of which a majority of members reside in the Province and at least 25 members reside in the municipality where the generation facility is located;
 - (d) a not-for-profit body corporate of which a majority of members reside in the Province and at least 25 members reside in the municipality where the generation facility is located;
 - (e) a community economic-development corporation of which at least 25 shareholders or members reside in the municipality where the generation facility is located;
 - (f) a university.
- (3)** In addition to the ownership requirements in subsection (2), to qualify for a community feed-in tariff, a 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 in accordance with 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) subject to clauses (e) and (f), 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 Mi'kmaq [Mi'kmaw] band council, it must be located on reserve lands or lands leased or owned by a band-controlled entity;
 - (g) it must have been issued a feed-in tariff approval.
- (4)** For the purposes of subsection (3), an entity owns a generation facility if it holds at least a majority ownership interest in the generation facility or in an entity that owns the generation facility.

- (5) 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 renewable electricity generator or an affiliate of the renewable electricity generator.

Setting developmental tidal array tariff

- 21** In setting a tariff for developmental tidal arrays, the Board must take into account those matters described in subsection 19(2), including the costs for the manufacture, deployment and operation of the developmental tidal array, but must not make any allowance for any of the following matters:
- (a) costs covered or reimbursed through any government grant;
 - (b) costs to interconnect the generation facility with the electrical grid.

Developmental tidal array tariff qualifications

- 22** To qualify for a developmental tidal array tariff, a generation facility must meet all of the following requirements:

- (a) it must be located in the Province;
- (b) it must meet the definition of “developmental tidal array” in these regulations;
- (c) it must interconnect with the electrical grid through a transmission system;
- (c)* it must have been issued a feed-in tariff approval.

[*Clause lettering as in original.]

Applying for feed-in tariff approval

- 23** An application for a feed-in tariff approval must be

- (a) submitted to the Minister in a form or manner required by the Minister, which may include filing electronically through the Internet; and
- (b) completed and signed by an authorized signatory of the applicant.

Contents of application for feed-in tariff approval

- 24** An application for a feed-in tariff approval must include all of the following information or documentation:

- (a) the name, address, e-mail address and telephone and fax number of the applicant and the name, title and address of the person to be contacted about the application;
- (b) if applicable, proof of current registration with the Nova Scotia Registry of Joint Stock Companies;
- (c) evidence that the applicant qualifies for the feed-in tariff program;
- (d) a project concept identifying the type of generation facility proposed and the community in which the project will be located;
- (e) documentation demonstrating that the applicant has knowledge of the municipal by-laws that apply to the project and a commitment to comply with them;

- (f) documentation identifying any local Mi'kmaq [Mi'kmaq] communities that may be impacted by the project and demonstrates [ing] an acceptable means of engaging those Mi'kmaq [Mi'kmaq] communities to identify any of their concerns or interests, including interests in participation as owners, investors or suppliers;
- (g) evidence of community support for the project, which may include
 - (i) a municipal council resolution from the municipality within which the project is to be located indicating support for the project, and
 - (ii) letters or other written evidence of support for the project from members of the community in which the project is to be located;
- (h) documentation demonstrating the applicant's knowledge and understanding of the type and scope of environmental approvals required for the project, including a statement of the environmental impact of the project;
- (i) a business case that
 - (i) includes a resource assessment,
 - (ii) demonstrates the financial viability of the project at the appropriate tariff rate, and
 - (iii) includes the projected capital costs of the project, including interconnection costs and the cost of and expected sources of capital;
- (j) documentation demonstrating the applicant's knowledge of the requirements for an archaeological or heritage site review, including a plan for completing the review with cost and timing implications for the project;
- (k) documentation demonstrating the applicant's knowledge of the land ownership and access issues for the proposed project site;
- (l) evidence of discussions with NSPI on the technology requirements for the project, including the availability of capacity on the distribution or transmission system for the project, as the case may be;
- (m) documentation demonstrating an understanding of the detailed technical studies required for the project, including the costs of the studies;
- (n) documentation demonstrating compliance with the ownership requirements in subsection 4A(8) of the Act and, if applicable, of subsection 20(3);
- (o) for a biomass project, a biomass fuel procurement plan outlining how the applicant intends to ensure that its fuel supply will meet sustainable harvesting requirements;
- (p) any additional information or documentation required by the Minister.

Designated representatives

- 25 (1)** An applicant for a feed-in tariff approval must designate a representative in writing in a form required by the Minister and file the designation with the Minister.

- (2) Once designated, a representative of an applicant or approval holder has sole responsibility on behalf of the applicant or approval holder for
 - (a) corresponding with the Minister with respect to any application or approval or the administration of these regulations, whether by written or electronic means; and
 - (b) any additional duties that are specified in a feed-in tariff approval issued to the applicant or approval holder.
- (3) An applicant or approval holder is responsible for advising its representative of the representative's obligations under these regulations.
- (4) An applicant or approval holder is liable for the acts or omissions of its representative with respect to any matter to which the authority of the representative extends.
- (5) A representative continues as a representative unless another representative is substituted as provided for in subsection (8).
- (6) The Minister may rely, without detriment, on any representations made or actions taken by a representative.
- (7) An applicant or approval holder is deemed to have notice of all correspondence from the Minister that is directed through the representative.
- (8) An applicant or approval holder may, on giving the Minister 30 days' notice in writing, substitute another representative by filing a new designation with the Minister, and on filing, the former designation is revoked.
- (9) A reference in these regulations to an applicant or the holder of a feed-in tariff approval includes the representative of the applicant or the approval holder.

Use of information

26 The information in an application for a feed-in tariff approval may be shared with other departments or agencies of the government or a load-serving entity in order to complete the application process.

Incomplete application for feed-in tariff approval

- 27** (1) If an application for a feed-in tariff approval is not complete or additional information is required, the Minister must notify the applicant in writing no later than 90 days after receipt of the application and request the information necessary to make the application complete.
- (2) If the information requested under subsection (1) is not provided by the applicant within 90 days of the request, the Minister may reject the application and, if so, must immediately notify the applicant in writing that the application has been rejected.

Approval or rejection of application for feed-in tariff approval

- 28** (1) The Minister may approve or reject an application for a feed-in tariff approval that satisfies the requirements of the Act and these regulations.
- (2) For wind power generation facilities with a capacity of 50 kW or less, feed-in tariff approvals must be issued for no more than a maximum of 5 mW total capacity.
- (3) On approving or rejecting an application, the Minister must notify the applicant accordingly.

- (4) On approving an application, the Minister must issue the applicant a feed-in tariff approval subject to any terms and conditions that the Minister determines are appropriate.

Minister's approval required to transfer feed-in tariff approval

29 A feed-in tariff approval must not be transferred without the prior written approval of the Minister.

Approved applicant must continue to meet requirements

30 An applicant that has been issued a feed-in tariff approval must continue to meet the applicable requirements of these regulations and must diligently pursue the construction and completion of the applicant's project.

Interconnection queue

31 At the request of an applicant that has been issued a feed-in tariff approval, NSPI must place the applicant's generation facility in the next available place in the queue for interconnection with the electrical grid.

Standard power purchase agreement for feed-in tariff program

- 32** (1) The Minister, in consultation with NSPI, must prepare a standard form of power purchase agreement to be used for the feed-in tariff program and must have the form of power purchase agreement approved by the Board.
- (2) When a feed-in tariff approval is issued, the applicant and NSPI are deemed to have entered into a power purchase agreement in the form provided for in subsection (1) effective from the date NSPI places the applicant in the interconnection queue as required by Section 31.
- (3) The intended parties to a power purchase agreement may agree to changes to the standard power purchase agreement provided for in subsection (1) and, if so, the form of power purchase agreement as agreed to by the parties must be provided to the Minister.

Minister's consent required to assign power purchase agreement

33 A power purchase agreement entered into under the feed-in tariff program must not be assigned without the prior written consent of the Minister.

Generator under feed-in tariff program must report to Minister

34 Within 30 days of the interconnection of a renewable low-impact electricity generation facility with the electrical grid under the feed-in tariff program, the renewable low-impact electricity generator that owns or operates the facility must provide a report to the Minister that details all of the following:

- (a) the total capital costs for the project;
- (b) for each project expenditure for goods or services in the amount of \$50 000 or greater, the name and address of the supplier or contractor providing the goods or services.

"One-window" committee for feed-in tariff program

- 35** (1) The Ministers of each of the following departments must each designate 1 or more representative[s] to serve on a "one-window" committee under the direction of the Minister of Energy:
- (a) Agriculture;
 - (b) Energy;
 - (c) Environment;
 - (d) Fisheries and Aquaculture;

- (e) Natural Resources;
 - (f) Service Nova Scotia and Municipal Relations;
 - (g) Tourism, Culture and Heritage;
 - (h) Transportation and Infrastructure Renewal.
- (2) The “one-window” committee must coordinate the providing of timely advice to applicants under the feed-in tariff program about permits or approvals necessary from the respective departments for applicants’ projects, and the estimated time for the processing of permits and approvals.

Procurement of Renewable Low-Impact Electricity Under Section 4B of the Act

Requirement for request for proposals

36 If a request for proposals under Section 4B of the Act includes a request for a primary forest biomass renewable low-impact electricity generation facility, the request for proposals must require that a proponent provide a biomass fuel procurement plan that outlines how the proponent intends to ensure that its fuel supply will meet sustainable harvesting requirements.

Standard power purchase agreement for procurement

- 37** (1) The renewable electricity administrator must, in consultation with NSPI, prepare a standard form power purchase agreement to be used for procuring renewable low-impact electricity under Section 4B of the Act and must have the form of power purchase agreement approved by the Board before any procurement.
- (2) The intended parties to a power purchase agreement may agree to changes to the standard power purchase agreement provided for in subsection (1) and, if so, the form of power purchase agreement as agreed to by the parties must be provided to the Minister.

Records, Audits and Reporting

Renewable electricity standards progress reports

- 38** (1) Each load-serving entity must report to the Minister annually, or at other intervals determined by the Minister, to outline its progress in meeting the requirements of the renewable electricity standards.
- (2) The Minister may specify the form and content of the progress reports.
- (3) The Minister may issue directions or orders to ensure that the requirements of this Section are met.

Books and records of renewable low-impact electricity generators

39 Every renewable low-impact electricity generator must keep or cause to be kept appropriate books, records, accounts, documents and other information related to the ownership and operation of its renewable low-impact electricity generation facility and its membership or ownership at an office in the Province.

Audit or examination of renewable low-impact electricity generator

40 The Minister may at any time audit or examine the books and records of a renewable low-impact electricity generator to ensure the continued compliance by the renewable electricity generator with the Act and these regulations.

Duty of renewable low-impact electricity generator

41 For the purpose of an audit or examination under Section 40, a renewable low-impact electricity generator must do all of the following:

- (a) make its books, records, accounts, documents and other information available at all reasonable times to any person authorized by the Minister for the purpose, and provide the person with copies of documents requested by the person that are reasonable for the purposes of the audit or examination;
- (b) make copies of any operating agreement or other agreements between the renewable low-impact electricity generator and any other person in relation to the operation or ownership of its renewable low-impact electricity generation facility available at all reasonable times to any person authorized by the Minister for the purpose;
- (c) at any time, on any notice and under any supervision by or on behalf of the renewable low-impact electricity generator as is reasonable in the circumstances,
 - (i) give all reasonable assistance to a person authorized by the Minister to carry out the audit or examination,
 - (ii) provide access to all relevant sites, and
 - (iii) answer orally or in writing all questions relating to the audit or examination.

Report by independent power producer

42 If any event occurs, whether by operation of law or otherwise, that causes an independent power producer to fail to comply with the requirements for an independent power producer under these regulations, the independent power producer must immediately notify the Minister in writing of the event and provide any information that the Minister requires.

Enforcement

Minister's powers

- 43 (1)** The Minister has all the power and authority necessary to implement, administer and enforce these regulations, including the power to issue directions or orders, and must do all of the following:
- (a) establish a process for approving and auditing renewable low-impact electricity generation facilities and renewable low-impact electricity generators for compliance with these regulations;
 - (b) establish a process for approving and re-approving renewable low-impact electricity generation facilities and renewable low-impact electricity generators;
 - (c) establish accounts and records for a renewable low-impact electricity generator or its representative;
 - (d) establish registries of renewable low-impact electricity generation facilities and information that the Minister determines to be necessary.
- (2)** In addition to the powers and duties set out in subsection (1), the Minister may do any of the following:
- (a) audit approved renewable low-impact electricity generation facilities as necessary to verify compliance with the Act and regulations;
 - (b) suspend or revoke an approval issued under these regulations;

- (c) take any action that the Minister considers necessary to ensure that the requirements of these regulations are met;
 - (d) extend the time within which a condition of an approval issued under these regulations must be met;
 - (e) prepare interpretations of these regulations, or policies, standards and guidelines under these regulations.
- (3) The Minister may authorize a representative of the Department of Energy to exercise the Minister's powers and authority, and to undertake the Minister's responsibilities under these regulations.
- (4) The Minister may direct the Board to inquire into and report on any matter under the Act or these regulations if the Minister considers it necessary or advisable in order to effectively carry out the intent and purpose of the Act.

Order to comply

- 44 (1) If the Minister believes on reasonable grounds that a person has contravened or will contravene any part of the Act or these regulations, the Minister may issue an order requiring the person to cease a specified activity or to take any action that the Minister directs.
- (2) An order remains in effect until it is revoked, in writing, by the Minister.
- (3) A copy of an order must be served on the person to whom it is directed.

Compliance with order

- 45 (1) If an order issued under Section 44 is served on a person to whom it is directed, that person must comply with the order without delay or, if a period for compliance is specified in the order, within the time period specified.
- (2) Any order issued because of the failure of a cooperative, a not-for-profit body corporate or a community economic-development corporation to continue to meet the ownership requirements in clause 20(2)(c), (d) or (e), as the case may be, must allow a reasonable period of time for the person to whom the order is directed to comply with the order.

Failure to comply

- 46 (1) If a person to whom an order under Section 44 is directed does not comply with the order or a part of the order, the Minister may take whatever action the Minister considers necessary to carry out the terms of the order or, in the case of a renewable low-impact electricity generator participating in the feed-in tariff program, may cancel or suspend a power purchase agreement to which the generator is party.
- (2) Any power purchase agreement entered into or deemed to have been entered into under the feed-in tariff program is subject to suspension or cancellation by the Minister as provided in subsection (1).

Penalties and enforcement respecting renewable electricity standard

- 47 (1) A person who does any of the following is liable to a daily penalty of no more than \$500 000 to a maximum aggregate of \$10 000 000 per occurrence:
- (a) fails to comply with the requirements of Section 4, 5 or 6;
 - (b) fails, neglects, omits or otherwise refuses to do any act or thing required in respect of Section 4, 5 or 6;

- (c) fails, neglects, omits or otherwise refuses to comply with a direction or order of the Minister to comply with Section 4, 5 or 6.
- (2) Unless otherwise provided in the Act, a person is not subject to a penalty under subsection (1) if the person establishes that they
 - (a) exercised due diligence; or
 - (b) reasonably and honestly believed in the existence of facts that, if true, would render the conduct of the person excusable.
- (3) No public utility may recover any penalty imposed on it under this Section through its rates.

Appeals

Appeals to the Board

- 48** (1) A person directly affected by an order or decision of the Minister made under these regulations may, by written notice to the Board, appeal to the Board no later than 60 days after the later of
- (a) the date of the order or decision; and
 - (b) the date that the reasons for the order or decision are issued.
- (2) If an appeal is taken under this Section, the Board may, by order, confirm the decision under appeal or make any other decision that the Board considers proper.
- (3) The Minister is entitled to be heard by counsel or otherwise on the argument of an appeal under this Section.

Board powers

- 49** The powers of the Board respecting a hearing or an appeal under the *Utility and Review Board Act* and the *Public Utilities Act* and regulations made under those Acts apply to hearings and appeals under the Act and these regulations.

N.S. Reg. 156/2010

Made: October 14, 2010

Filed: October 18, 2010

Prescribed Petroleum Products Prices

Order dated October 14, 2010
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-10-42****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:** Kulvinder S. Dhillon, 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 average of the average of the daily high and low reported product prices (in Canadian cents) for the week ended October 13, 2010, are:

Grade 1 Regular gasoline	59.0¢ per litre
Ultra-low-sulfur diesel oil	61.4¢ per litre

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

Gasoline:	
Grade 1	59.0¢ per litre
Grade 2	62.0¢ per litre
Grade 3	65.0¢ per litre
Ultra-low-sulfur diesel oil	61.4¢ 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 0.9¢ per litre
Ultra-low-sulfur diesel oil:	plus 0.3¢ per litre

And whereas a winter blending adjustment of plus 0.5¢ 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., October 15, 2010.

Dated at Halifax, Nova Scotia, this 14th day of October, 2010.

Sgd: *Mora Stevens*
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 October 15, 2010**

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	66.2	10.0	15.5	91.7	110.1	111.8	110.1	999.9
Mid-Grade Unleaded	69.2	10.0	15.5	94.7	113.5	115.2	113.5	999.9
Premium Unleaded	72.2	10.0	15.5	97.7	117.0	118.7	117.0	999.9
Ultra-Low-Sulfur Diesel	68.5	4.0	15.4	87.9	105.7	107.4	105.7	999.9
Zone 2								
Regular Unleaded	66.6	10.0	15.5	92.1	110.5	112.2	110.5	999.9
Mid-Grade Unleaded	69.6	10.0	15.5	95.1	114.0	115.7	114.0	999.9
Premium Unleaded	72.6	10.0	15.5	98.1	117.4	119.1	117.4	999.9
Ultra-Low-Sulfur Diesel	68.9	4.0	15.4	88.3	106.1	107.9	106.1	999.9
Zone 3								
Regular Unleaded	67.1	10.0	15.5	92.6	111.1	112.8	111.1	999.9
Mid-Grade Unleaded	70.1	10.0	15.5	95.6	114.5	116.3	114.5	999.9
Premium Unleaded	73.1	10.0	15.5	98.6	118.0	119.7	118.0	999.9
Ultra-Low-Sulfur Diesel	69.4	4.0	15.4	88.8	106.7	108.4	106.7	999.9
Zone 4								
Regular Unleaded	67.1	10.0	15.5	92.6	111.1	112.8	111.1	999.9
Mid-Grade Unleaded	70.1	10.0	15.5	95.6	114.5	116.3	114.5	999.9
Premium Unleaded	73.1	10.0	15.5	98.6	118.0	119.7	118.0	999.9
Ultra-Low-Sulfur Diesel	69.4	4.0	15.4	88.8	106.7	108.4	106.7	999.9
Zone 5								
Regular Unleaded	67.1	10.0	15.5	92.6	111.1	112.8	111.1	999.9
Mid-Grade Unleaded	70.1	10.0	15.5	95.6	114.5	116.3	114.5	999.9
Premium Unleaded	73.1	10.0	15.5	98.6	118.0	119.7	118.0	999.9
Ultra-Low-Sulfur Diesel	69.4	4.0	15.4	88.8	106.7	108.4	106.7	999.9
Zone 6								
Regular Unleaded	67.9	10.0	15.5	93.4	112.0	113.7	112.0	999.9
Mid-Grade Unleaded	70.9	10.0	15.5	96.4	115.5	117.2	115.5	999.9
Premium Unleaded	73.9	10.0	15.5	99.4	118.9	120.6	118.9	999.9
Ultra-Low-Sulfur Diesel	70.2	4.0	15.4	89.6	107.6	109.4	107.6	999.9

N.S. Reg. 157/2010

Made: October 21, 2010

Filed: October 25, 2010

Prescribed Petroleum Products Prices

Order dated October 21, 2010
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-10-43****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: Roland A. Deveau, 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 average of the average of the daily high and low reported product prices (in Canadian cents) for the week ended October 20, 2010, are:

Grade 1 Regular gasoline	57.7¢ per litre
Ultra-low-sulfur diesel oil	60.9¢ per litre

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

Gasoline:	
Grade 1	57.7¢ per litre
Grade 2	60.7¢ per litre
Grade 3	63.7¢ per litre
Ultra-low-sulfur diesel oil	60.9¢ 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:	plus 0.4¢ per litre
Ultra-low-sulfur diesel oil:	nil

And whereas a winter blending adjustment of plus 0.6¢ 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., October 22, 2010.

Dated at Halifax, Nova Scotia, this 21st day of October, 2010.

Sgd: *Mora Stevens*
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 October 22, 2010**

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	64.4	10.0	15.5	89.9	108.0	109.7	108.0	999.9
Mid-Grade Unleaded	67.4	10.0	15.5	92.9	111.4	113.2	111.4	999.9
Premium Unleaded	70.4	10.0	15.5	95.9	114.9	116.6	114.9	999.9
Ultra-Low-Sulfur Diesel	67.8	4.0	15.4	87.2	104.9	106.6	104.9	999.9
Zone 2								
Regular Unleaded	64.8	10.0	15.5	90.3	108.4	110.2	108.4	999.9
Mid-Grade Unleaded	67.8	10.0	15.5	93.3	111.9	113.6	111.9	999.9
Premium Unleaded	70.8	10.0	15.5	96.3	115.3	117.1	115.3	999.9
Ultra-Low-Sulfur Diesel	68.2	4.0	15.4	87.6	105.3	107.1	105.3	999.9
Zone 3								
Regular Unleaded	65.3	10.0	15.5	90.8	109.0	110.7	109.0	999.9
Mid-Grade Unleaded	68.3	10.0	15.5	93.8	112.5	114.2	112.5	999.9
Premium Unleaded	71.3	10.0	15.5	96.8	115.9	117.6	115.9	999.9
Ultra-Low-Sulfur Diesel	68.7	4.0	15.4	88.1	105.9	107.6	105.9	999.9
Zone 4								
Regular Unleaded	65.3	10.0	15.5	90.8	109.0	110.7	109.0	999.9
Mid-Grade Unleaded	68.3	10.0	15.5	93.8	112.5	114.2	112.5	999.9
Premium Unleaded	71.3	10.0	15.5	96.8	115.9	117.6	115.9	999.9
Ultra-Low-Sulfur Diesel	68.7	4.0	15.4	88.1	105.9	107.6	105.9	999.9
Zone 5								
Regular Unleaded	65.3	10.0	15.5	90.8	109.0	110.7	109.0	999.9
Mid-Grade Unleaded	68.3	10.0	15.5	93.8	112.5	114.2	112.5	999.9
Premium Unleaded	71.3	10.0	15.5	96.8	115.9	117.6	115.9	999.9
Ultra-Low-Sulfur Diesel	68.7	4.0	15.4	88.1	105.9	107.6	105.9	999.9
Zone 6								
Regular Unleaded	66.1	10.0	15.5	91.6	109.9	111.7	109.9	999.9
Mid-Grade Unleaded	69.1	10.0	15.5	94.6	113.4	115.1	113.4	999.9
Premium Unleaded	72.1	10.0	15.5	97.6	116.8	118.6	116.8	999.9
Ultra-Low-Sulfur Diesel	69.5	4.0	15.4	88.9	106.8	108.6	106.8	999.9