



**Executive
Council**

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**Jane Newton
Registrar of Regulations
Province of Nova Scotia**

2024-30

The Governor in Council, on the report and recommendation of the Minister of Environment and Climate Change dated December 29, 2023, and pursuant to Section 112ZJ of Chapter 1 of the Acts of 1994-95, the *Environment Act*, is pleased to make regulations respecting output-based pricing system reporting and compliance, in the form set forth in Schedule "A" attached to and forming part of the Report and Recommendation, effective on and after January 1, 2023.

Certified to be a true copy


.....
Laura Lee Langley
Clerk of the Executive Council

Schedule “A”

Regulations Respecting Output-Based Pricing System Reporting and Compliance made by the Governor in Council under Section 112ZJ of Chapter 1 of the Acts of 1994-95, the *Environment Act*

Interpretation

Citation

- 1 These regulations may be cited as the *Output-Based Pricing System Reporting and Compliance Regulations*.

Definitions

- 2 In these regulations,

“Act” means the *Environment Act*;

“baseline emissions intensity” means the quotient obtained by dividing the baseline emissions level for a product in commercial production at a regulated facility by the regulated facility’s baseline production level for the product;

“baseline emissions level” means the average total quantity of regulated emissions by a regulated facility resulting from the commercial production of a product calculated on the basis of the baseline years for the regulated facility;

“baseline production level” means the average total annual quantity of a product commercially produced at a regulated facility calculated on the basis of the baseline years for the regulated facility;

“baseline years” means the years chosen in accordance with the standards by the owner or operator of a regulated facility to calculate a baseline emissions level or baseline production level and that are approved by the Minister;

“commercial production” means the production of a product or extraction of minerals, solid materials, liquids or gases for any of the following purposes:

- (i) sale,

- (ii) transfer,
- (iii) distribution;

“compliance period” means the period described in Section 3;

“emissions intensity” means the intensity of regulated emissions;

“performance standards reduction factor” means a percentage set out in Table 1 or 2 of Schedule A that applies for a given reduction period to a product commercially produced at a regulated facility, but which does not apply to electricity generated by a regulated facility;

“qualified person” means a person who

- (i) is contracted by a owner or operator of a regulated facility to verify the information in a report that is required to be produced under an output-based pricing system and produce a verification report,
- (ii) holds a valid certificate of qualification, and
- (iii) meets the eligibility requirements in Section 14;

“standards” means the Output-Based Pricing System Reporting and Compliance Standard published by the Minister, as supplemented, amended, added to, replaced or superseded, and any other standards made under these regulations;

“standby period” means a period covered by an order of the Minister issued under Section 18;

“verification report” means a written report that meets all of the following criteria:

- (i) it verifies the information that is contained in an earlier report and that earlier report is
 - (A) about a regulated facility, and
 - (B) required to be produced under an output-based pricing system,
- (ii) it is prepared by 1 or more qualified persons,
- (iii) it is prepared in accordance with the standards;

“year” means a calendar year.

Compliance Periods and Reduction Periods

Compliance period

- 3 (1) For the purposes of the Act and these regulations, a compliance period is any year in which a regulated facility is subject to these regulations and is required, in accordance with these regulations and the standards, to reduce its emissions intensity.
- (2) The first compliance period for a regulated facility is the first year in which the regulated facility becomes subject to these regulations.
- (3) Despite subsections (1) and (2), the Minister may provide written notice to the owner or operator of a regulated facility that the regulated facility is excluded from any portion of a compliance period if the Minister considers it just and equitable to do so.

Reduction period

- 4 The owner or operator of a regulated facility must determine a reduction period, in accordance with the standards, to determine any of the following:
- (a) the performance standards reduction factor for a product in commercial production at the regulated facility;
 - (b) for a regulated facility that engages in fossil fuel-based electricity generation, the performance standards for the electricity generated by a given type of fossil fuel at the regulated facility.

Emissions Reduction Requirements and Emission-Related Calculations and Adjustments

Requirement to reduce emissions intensity

- 5 Under subsection 112W(1) of the Act, the owner or operator of a regulated facility must reduce, in accordance with these regulations and the standards, the emissions intensity at the regulated facility.

Performance standards reduction factor or performance standards used to calculate emissions limit for regulated facility

- 6 In calculating an emissions limit for a regulated facility in accordance with the standards, the owner or operator of the regulated facility must,
- (a) for a product other than electricity that is classified as emissions intensive and trade exposed in accordance with the standards, determine the performance standards reduction factor for the regulated facility in a given

reduction period using Table 1 of Schedule A;

- (b) for a product other than electricity that is classified as non-emissions intensive and non-trade exposed in accordance with the standards, determine the performance standards reduction factor for the regulated facility in a given reduction period using Table 2 of Schedule A; and
- (c) for a regulated facility that engages exclusively in electricity generation, determine the performance standards for the electricity generated by each fossil fuel type at the regulated facility in a given reduction period using Table 3 of Schedule A.

Baselines for regulated facility

- 7 (1) The owner or operator of a regulated facility must perform all of the following tasks and perform those tasks in accordance with the standards:
- (a) establish the baseline years for the regulated facility;
 - (b) establish the baseline emissions level, baseline production level and baseline emissions intensity for each product commercially produced at the regulated facility;
 - (c) report the information in clauses (a) and (b) to the Minister;
 - (d) submit a verification report verifying the information reported under clause (c) to the Minister.
- (2) A verification report described in clause (1)(d) is subject to the approval of the Minister.
- (3) If the verification report described in clause (1)(d) is adverse to the regulated facility or qualifies any of the information reported under clause (1)(c), the Minister may issue a written order stating that the owner or operator of the regulated facility must undertake any corrective actions specified in the order within the time period specified in the order.
- (4) An owner or operator of a regulated facility who is issued an order by the Minister under subsection (3) must comply with the order.
- (5) The owner or operator of a regulated facility must advise the Minister, in writing, of the occurrence of any of the following within 30 days of the date of the occurrence:
- (a) the regulated facility commences commercial production of a new product;

- (b) the regulated facility ceases commercial production of an existing product;
 - (c) commercial production at the regulated facility decreases, but does not cease, due to the decommissioning of the regulated facility;
 - (d) the emissions intensity at the regulated facility reduces by 10% or more in a compliance period;
 - (e) changes made to quantification methodologies result in deviations from previously calculated regulated emissions.
- (6) Subject to subsection (7), the Minister may review a baseline emissions intensity and adjust the baseline emissions intensity or require the owner or operator of a regulated facility to adjust the baseline emissions intensity to the satisfaction of the Minister if 1 of the following applies:
- (a) 1 of the events described in subsection (5) has occurred;
 - (b) the Minister believes that the baseline emissions intensity as established by the owner or operator of the regulated facility is inaccurate.
- (7) Before the Minister exercises the authority in subsection (6) to adjust or require the owner or operator of a regulated facility to adjust a baseline emissions intensity, the Minister must do all of the following:
- (a) provide the owner or operator of the regulated facility with written notice of the Minister's decision to adjust or require the adjustment of the baseline emissions intensity and the reasons for that decision;
 - (b) give the owner or operator of the regulated facility an opportunity to make written representations to the Minister about the Minister's decision to adjust or require the adjustment of the baseline emissions intensity within 30 days of receiving the written notice of the Minister's decision described in clause (a).

Application to adjust baseline emissions intensity

- 8** (1) If any of the events described in subsection 7(5) occur or if the Minister believes that it is appropriate, the owner or operator of a regulated facility may, in accordance with the standards and subsection (2), apply to the Minister for authorization to adjust the baseline emissions intensity for any product commercially produced at the regulated facility.
- (2) An application described in subsection (1) must meet all of the following criteria:

- (a) it must be submitted in a form and manner satisfactory to the Minister;
- (b) it must be submitted on or before the deadline for the compliance period in which the adjusted baseline emissions intensity is to apply, as established in the standards;
- (c) it must include the information required by the standards and the Minister.

Emissions limit for and total quantity of regulated emissions by regulated facility

- 9** (1) In accordance with the standards, for every compliance period, the owner or operator of a regulated facility must determine the emissions limit for the regulated facility and the total quantity of regulated emissions by the regulated facility.
- (2) If the Minister decides that the owner or operator of a regulated facility has not complied with the standards when determining the emissions limit for the regulated facility or the total quantity of regulated emissions by the regulated facility, the Minister must
- (a) advise the owner or operator of the regulated facility of that decision and the reasons for it in writing; and
 - (b) specify the procedures that are in accordance with the standards that the owner or operator of the regulated facility must follow when making the determination.
- (3) The owner or operator of the regulated facility must follow the procedures specified by the Minister under clause (2)(b).

Compliance Obligations and Compliance Options

Compliance obligations

- 10** (1) The Minister must impose a compliance obligation on a regulated facility if the total quantity of regulated emissions by the regulated facility exceeds the emissions limit for that regulated facility in a compliance period.
- (2) Despite subsection (1), the Minister may, in the circumstances outlined in the standards, exempt a regulated facility from all or a portion of a compliance obligation imposed because the total quantity of regulated emissions by the regulated facility exceeded the emissions limit for that regulated facility.
- (3) A compliance obligation imposed by the Minister on a regulated facility, expressed in tonnes of carbon dioxide equivalent of greenhouse gases, for a given compliance period must be calculated in accordance with the following formula:

$$\text{compliance obligation} = A - B$$

in which

A = the total quantity of regulated emissions by the regulated facility in the compliance period, expressed in tonnes of carbon dioxide equivalent of greenhouse gases,

B = the emissions limit for the regulated facility for the compliance period, expressed in tonnes of carbon dioxide equivalent of greenhouse gases.

- (4) A compliance obligation imposed by the Minister on a regulated facility under subsection (1) must be issued in writing and in accordance with the standards.

Compliance options

11 (1) On or before the date prescribed in the standards, a regulated facility must, in accordance with the standards, fulfil a compliance obligation that has been imposed on it by the Minister under Section 10 using 1 or more of the following:

(a) fund credits;

(b) performance credits awarded by the Minister, if any;

(c) offset credits granted or recognized by the Minister, if any.

(2) If a regulated facility fails to fulfil a compliance obligation using the means described in subsection (1), the regulated facility must pay the amount calculated in accordance with subsection (3) into the Fund.

(3) The dollar amount of an unfulfilled compliance obligation must be calculated in accordance with the following formula:

$$\text{unfulfilled compliance obligation} = (A - B) \times C$$

in which

A = the compliance obligation calculated in accordance with subsection 10(3), expressed in tonnes of carbon dioxide equivalent of greenhouse gases,

B = the fulfilled compliance obligation, expressed in tonnes of carbon dioxide equivalent of greenhouse gases,

C = the dollar amount per tonne of carbon dioxide equivalent of greenhouse gases that corresponds with the year in which the compliance period falls,

as set out in the following table:

Compliance period year	Dollar amount per tonne of carbon dioxide equivalent of greenhouse gases
2023	\$65
2024	\$80
2025	\$95
2026	\$110
2027	\$125
2028	\$140
2029	\$155
2030 and subsequent years	\$170

- (4) For the purposes of subsection 112ZC(6) of the Act, any amount that is required to be paid into the Fund under the Act and the regulations that remains unpaid will bear interest at the rate set out in subsection 3(1) of the *Revenue Act Regulations* made under the *Revenue Act*.

Fund credits

- 12 (1) A regulated facility may obtain a fund credit by paying money into the Fund in accordance with these regulations.
- (2) A regulated facility must not obtain more fund credits than required to fulfil the regulated facility's compliance obligation for a given compliance period.
- (3) The purchase price of fund credits per tonne of carbon dioxide equivalent of greenhouse gases is as set out in the following table:

Compliance period year	Purchase price of fund credits per tonne of carbon dioxide equivalent of greenhouse gases
2023	\$65
2024	\$80
2025	\$95
2026	\$110
2027	\$125
2028	\$140
2029	\$155
2030 and subsequent years	\$170

- (4) If a regulated facility obtains fund credits, the Minister must do all of the following:
 - (a) create a serial number for each fund credit;
 - (b) record the serial numbers of the fund credits in the registry described in Section 112ZA of the Act;
 - (c) notify the regulated facility of the serial numbers of its fund credits.
- (5) A fund credit obtained for a compliance period must only be used for that compliance period.
- (6) If the owner or operator of a regulated facility submits a revised greenhouse gas emissions report for the regulated facility for a previous compliance period and the regulated facility requires additional fund credits to fulfil all or a portion of its compliance obligations for that previous compliance period, fund credits may be obtained by the regulated facility for use in that previous compliance period at the rate corresponding to that previous compliance period.
- (7) If the owner or operator of a regulated facility that purchased fund credits to fulfill all or a portion of the regulated facility's compliance obligations for a year submits a revised greenhouse gas emissions report for the regulated facility and, based on the revised greenhouse gas emissions report, it is determined that the regulated facility did not need some or all of the fund credits it purchased, the Minister may issue 1 performance credit for each excess fund credit that the regulated facility purchased.

Performance credits

- 13** (1) If the total quantity of regulated emissions by a regulated facility in a compliance period is less than the emissions limit for the regulated facility for that compliance period, the Minister must issue 1 or more performance credits to the owner or operator of the regulated facility except in the circumstances outlined in the standards.
- (2) The number of performance credits issued under subsection (1) must be calculated in accordance with the following formula:

$$\text{number of performance credits} = \text{EL} - \text{TVE}$$

in which

EL = the emissions limit for the regulated facility for the compliance period, as determined in accordance with Section 9,

TVE = the quantity of total verified emissions for the regulated facility in the compliance period.

- (3) One performance credit represents 1 tonne of carbon dioxide equivalent of greenhouse gases.
- (4) If the Minister determines that an owner or operator of a regulated facility is eligible for performance credits, the Minister must do all of the following:
 - (a) create a serial number for each performance credit;
 - (b) record the serial numbers of the performance credits in the registry described in Section 112ZA of the Act;
 - (c) notify the owner or operator of the regulated facility of the serial numbers of its performance credits.
- (5) A performance credit expires on December 31 of the year that is 7 years from the year in which it was first earned.
- (6) Performance credits may be transferred from the owner or operator of 1 regulated facility to the owner or operator of another regulated facility, but the transfer is not effective until it is recorded in the registry described in Section 112ZA of the Act.
- (7) The owners or operators of regulated facilities that are involved in a transfer of performance credits must provide all of the following information to the Minister in a form determined by the Minister:
 - (a) the number of performance credits being transferred and the serial number of each performance credit being transferred;
 - (b) the name of the owner or operator of the regulated facility
 - (i) transferring the performance credits, and
 - (ii) receiving the performance credits;
 - (c) the facility registration number of the regulated facility
 - (i) transferring the performance credits, and
 - (ii) receiving the performance credits;
 - (d) the name of the individual designated to transfer the performance credits

on behalf of the owner or operator of the transferring regulated facility;

- (e) confirmation from the owner or operator of the regulated facility transferring the performance credits and the owner or operator of the regulated facility receiving the performance credits that the transfer has been authorized;
 - (f) the date of the transfer;
 - (g) any other information required by the Minister.
- (8)** If an owner or operator of a regulated facility that was issued performance credits for a compliance period submits a revised greenhouse gas emissions report within 5 years of the date the original greenhouse gas emissions report was submitted and, based on the revised greenhouse gas emissions report, it is determined that the owner or operator of the regulated facility was entitled to 1 of the following, the Minister may take the corresponding action:
- (a) if the owner or operator of the regulated facility was entitled to more performance credits than the owner or operator of the regulated facility received, the Minister may issue the additional performance credits to the owner or operator of the regulated facility;
 - (b) if the owner or operator of the regulated facility was entitled to fewer performance credits than the owner or operator of the regulated facility received, the Minister may do any of the following:
 - (i) retire the performance credits that the owner or operator of the regulated facility received in excess of the number to which the owner or operator of the regulated facility was entitled,
 - (ii) if the owner or operator of the regulated facility no longer has some or all of the excess performance credits, either
 - (A) withhold the number of excess performance credits previously issued from the performance credits to be issued to the owner or operator of the regulated facility in a future year, or
 - (B) require the owner or operator of the regulated facility to purchase fund credits at the price of fund credits in the year in which the performance credits were issued to the owner or operator of the regulated facility.

Qualified Persons and Reporting

Qualified persons

- 14** (1) A person is eligible to be a qualified person for a regulated facility if they meet the qualifications set out in the standards and are not any of the following:
- (a) an employee, agent or officer of the owner or operator of the regulated facility;
 - (b) the manager, owner or operator of the regulated facility;
 - (c) an employee, agent or officer of an affiliate of the owner or operator of the regulated facility;
 - (d) an employee or agent of the Province.
- (2) For the purposes of this Section, an external consultant for an owner or operator of a regulated facility is not considered to be an agent of an owner or operator of a regulated facility.
- (3) When verifying information, a qualified person must comply with the requirements established in the standards.

Greenhouse gas emissions report

- 15** (1) The owner or operator of a regulated facility must submit to the Minister a greenhouse gas emissions report for each compliance period in accordance with the standards and within the time period prescribed in the standards.
- (2) A greenhouse gas emissions report submitted under subsection (1) must contain all of the following:
- (a) the information required by the standards;
 - (b) evidence that the total quantity of regulated emissions by the regulated facility is below, meets or exceeds the emissions limit for the regulated facility for the compliance period;
 - (c) a declaration signed by the owner or operator of the regulated facility in the manner required by the standards.
- (3) A greenhouse gas emissions report submitted under subsection (1) must be verified by a verification report, in accordance with the standards and to the satisfaction of the Minister.

- (4) The Minister may issue a written order for any of the following reasons requiring that an owner or operator of a regulated facility make any changes the Minister may specify to a verification report or greenhouse gas emissions report and submit an updated version of the verification report or greenhouse gas emissions report to the Minister within the time period specified in the order:
- (a) during the document retention period established in Section 17, the Minister determines that the greenhouse gas emissions report contains errors or omissions;
 - (b) the verification report or greenhouse gas emissions report is adverse to the regulated facility.
- (5) An owner or operator of a regulated facility that is issued an order by the Minister under subsection (4) must comply with the order.

Compliance report

- 16 (1) In accordance with the standards, the owner or operator of a regulated facility must submit a compliance report to the Minister for any compliance period in which the total quantity of regulated emissions by the regulated facility exceeds the emissions limit for the regulated facility.
- (2) A compliance report described in subsection (1) must be submitted within the time period prescribed in the standards.
- (3) A compliance report described in subsection (1) must contain all of the following information:
- (a) confirmation satisfactory to the Minister that the regulated facility met any applicable compliance obligations for the compliance period;
 - (b) any information required by the standards.

Record Keeping

Record keeping

- 17 An owner or operator of a regulated facility who submits a report to the Minister under Section 112ZG of the Act must retain all documents and information that support the report for a minimum of 7 years after the date on which the report was submitted, including all of the following:
- (a) registration documents;
 - (b) information about all transactions made by the regulated facility that are

related to compliance options, including all of the following:

- (i) transactions between the regulated facility and the Minister,
 - (ii) transactions between the regulated facility and other regulated facilities;
- (c) all documentation related to or used to generate any reports, forms and other documents used to compile the report.

Standby and Decommissioning

Standby

- 18 (1)** On the application of the owner or operator of a regulated facility, the Minister may issue an order declaring that the regulated facility is in a standby period if the Minister is satisfied that 1 of the following circumstances applies:
- (a) a baseline production level has been established for each product commercially produced at the regulated facility and the Minister is satisfied that commercial production at the regulated facility has halted for at least 3 consecutive months and that the halt in production is not part of the normal operations of the regulated facility and therefore not used to establish a baseline production level;
 - (b) a baseline production level has not been established for each product commercially produced at the regulated facility and the Minister is satisfied that it was necessary to halt commercial production at the regulated facility for at least 3 consecutive months.
- (2)** If an order is issued declaring that a regulated facility is in a standby period under subsection (1), the owner or operator of the regulated facility is not required to have any greenhouse gas emissions reports for the regulated facility verified by a verification report under subsection 15(3) and the regulated facility is not subject to the imposition of compliance obligations.
- (3)** The owner or operator of a regulated facility that enters or is in a standby period during a compliance period is subject to the requirement that greenhouse gas emissions reports for the regulated facility be verified by verification reports and the regulated facility is subject to the imposition of a compliance obligation for any part of the compliance period in which it was in commercial production.
- (4)** If a regulated facility is in a standby period, the owner or operator of the regulated facility must submit a signed declaration to the Minister from time to time or at the Minister's request attesting that the regulated facility is in a standby period.

- (5) If a regulated facility is in a standby period and the owner or operator of the regulated facility decides to resume commercial production at the regulated facility, the owner or operator of the regulated facility must send written notice of that decision to the Minister as soon as possible after making the decision.
- (6) A regulated facility that resumes commercial production after a standby period is not subject to compliance obligations for a period of 3 months after the date on which commercial production resumes at the regulated facility.
- (7) After the expiry of the 3-month period described in subsection (6), the regulated facility is subject to the imposition of compliance obligations and its owner or operator is required to submit a verification report and a greenhouse gas emissions report to the Minister in the next compliance period in accordance with the standards.
- (8) In the circumstance described in clause (1)(b), the owner or operator of a regulated facility that resumes commercial production after a standby period must establish the information required by clauses 7(1)(a) and (b) within the time period required by the Minister.
- (9) The Minister may revoke an order made under this Section if the Minister is satisfied the regulated facility has resumed commercial production.

Decommissioning

- 19**
- (1) On the application of the owner or operator of a regulated facility, the Minister may make an order declaring that the regulated facility has been decommissioned if the Minister is satisfied that operations at the regulated facility have permanently ceased.
 - (2) Subject to subsections (3), (4) and (5), a regulated facility that is subject to an order made under subsection (1) is no longer subject to the Act, the regulations and the standards.
 - (3) The Minister may include any terms and conditions the Minister considers appropriate in an order made under subsection (1) and amend those terms and conditions.
 - (4) The owner or operator of the decommissioned regulated facility must comply with the terms and conditions included under subsection (3) in the order made by the Minister under subsection (1).
 - (5) The Act, the regulations and the standards continue to apply to the decommissioned regulated facility for the purpose of enforcing subsection (4).

Nova Scotia Climate Change Fund

Designation of Climate Change Fund Manager

20 The Executive Director of Climate Change, Department of Environment and Climate Change, is designated as the Climate Change Fund Manager.

Schedule A

Table 1: Performance Standards Reduction Factors for Emissions-Intensive and Trade-Exposed Products

Reduction Period	1	2	3	4	5	6	7	8
Performance standards reduction factor for emissions-intensive and trade-exposed products	99%	98%	97%	96%	95%	94%	93%	92%

Table 2: Performance Standards Reduction Factors for Non-Emissions-Intensive and Non-Trade-Exposed Products

Reduction Period	1	2	3	4	5	6	7	8
Performance standards reduction factor for non-emissions-intensive and non-trade-exposed products	98.5%	97%	95.5%	94%	92.5%	91%	89.5%	88%

Table 3: Performance Standards for Electricity Generation

Reduction Period		1	2	3	4	5	6	7	8
Performance standards for electricity generated by fossil fuel (t CO ₂ e/GWh)	coal	925	925	925	925	900	850	650	370
	gas (existing facilities)	370	370	370	370	370	370	370	370
	gas (new facilities)	288	247	206	164	123	82	41	0
	oil	550	550	550	550	550	550	550	550