

NEWFOUNDLAND AND LABRADOR REGULATION 116/18

Management of Greenhouse Gas Regulations
under the
Management of Greenhouse Gas Act
(O.C. 2018-268)

Amended by:
31/19
80/21
19/23

(Filed December 20, 2018)

Under the authority of [section 30](#) of the *Management of Greenhouse Gas Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, December 19, 2018.

Ann Marie Hann
Clerk of the Executive Council

REGULATIONS

Short title

1. These regulations may be cited as the *Management of Greenhouse Gas Regulations*.

116/18 s1

Definitions

2. (1) In these regulations

- (a) "Act" means the *Management of Greenhouse Gas Act*;
- (a.1) "authorization" means an authorization issued by the board under [paragraph 134\(1\)\(b\)](#) of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*;
- (b) "baseline emissions intensity" means baseline emissions intensity as calculated in accordance with [section 4](#);
- (c) "baseline emissions level" means baseline emissions level as calculated in accordance with [section 6](#);

- (c.1) "baseline industrial process emissions intensity" means baseline industrial process emissions intensity as calculated in accordance with section 4.1;
- (d) "biomass" has the same meaning as in the *Management of Greenhouse Gas Reporting Regulations* ;
- (e) "comparable facilities" means facilities located in Canada or the United States that
 - (i) have the same NAICS code,
 - (ii) have a similar production process,
 - (iii) produce a similar product or range of products, and
 - (iv) sell their products in similar markets;
- (e.1) "drilling authorization" means an authorization which authorizes, whether exclusively or in conjunction with other activities, the conduct of exploration drilling activities;
- (f) "emissions report" has the same meaning as in the *Management of Greenhouse Gas Reporting Regulations* ;
- (f.1) "exploration drilling activities" means activities conducted by a mobile offshore industrial facility under the authority of a drilling authorization as classified by the board;
- (g) "flaring emissions" means the controlled release of gas from the combustion of a gas or liquid steam produced at an industrial facility not for the purpose of producing energy;
- (h) "fugitive emissions" means the uncontrolled release of gas other than releases that are venting emissions or flaring emissions and including releases resulting from the production, processing, transmission, storage and use of solid, liquid or gaseous fuels;
- (i) "industrial facility" includes an opted-in facility;
- (i.1) "industrial process emissions" means any emissions generated from the following source categories:
 - (i) hydrogen production,
 - (ii) iron and steel manufacturing,
 - (iii) nickel and copper metal production, and
 - (iv) lime manufacturing;
- (j) "ISO 14064-3" has the same meaning as in the *Management of Greenhouse Gas Reporting Regulations* ;
- (k) "ISO 14065" has the same meaning as in the *Management of Greenhouse Gas Reporting Regulations* ;
- (l) "material impact" means a reduction in production of at least 10% relative to production in previous years;
- (l.1) "mobile offshore industrial facility" means a mobile marine installation or structure that
 - (i) is capable of conducting offshore well drilling activities, and

- (ii) has been approved by the board for well drilling activities in the offshore area under a drilling authorization;
- (m) "NAICS code" has the same meaning as in the *Management of Greenhouse Gas Reporting Regulations* ;
- (n) "offshore industrial facility" means an industrial facility located in the offshore area but does not include a mobile offshore industrial facility;
- (n.1) "operator" means
 - (i) in relation to an offshore industrial facility, a person who holds an authorization, and
 - (ii) in relation to a mobile offshore industrial facility, a person who holds a drilling authorization;
- (o) "performance benchmark" means performance benchmark as calculated in accordance with [section 7](#);
- (p) "production" means
 - (i) the volume of output from a production process, or
 - (ii) the volume of material moved within a mine, in relation to blasting operations and mobile transportation within a mine;
- (q) "production process" means a process of combining material, capital equipment, labour and energy inputs to extract mineral and petroleum resources or to produce a semi-processed or final product for consumption;
- (r) "registry" means the registry established under [section 15](#);
- (s) "retire" means to terminate the ability to use or transfer;
- (t) "throughput" means the volume of material in a production process;
- (u) "unexpected interruption of production" means an extended period where there is no production due to
 - (i) a labour dispute,
 - (ii) capital equipment breakdown,
 - (iii) natural disaster, or
 - (iv) another unforeseen event satisfactory to the Lieutenant-Governor in Council; and
- (v) "venting emissions" means the controlled release of a gas to the atmosphere and includes emissions from
 - (i) the release of casing gas, a gas associated with a liquid, solution gas, treater, stabilizer or dehydrator off-gas or blanket gas,
 - (ii) the release from pneumatic devices that use natural gas as a driver,
 - (iii) the release from compressor start-ups, pipelines and other blowdowns, and
 - (iv) releases from metering and regulation station control loops.

(2) For the purposes of the Act and these regulations, an industrial facility includes an offshore industrial facility and a mobile offshore industrial facility, unless the context indicates otherwise.

116/18 s2; 31/19 s1; 19/23 s1

Application

3. (1) These regulations apply to

- (a) industrial facilities that emit 25,000 tonnes of carbon dioxide equivalent or more of greenhouse gases in any year since the coming into force of section 4 of the Act; and
- (b) opted-in facilities.

(2) Notwithstanding paragraph (1)(a), these regulations do not apply to an industrial facility during its construction and pre-production stage.

(3) Notwithstanding paragraph (1)(a),

- (a) where an industrial facility, other than an mobile offshore industrial facility, commences production after these regulations come into force, Parts I to III do not apply to the industrial facility until its fourth year of production; and
- (b) where a mobile offshore industrial facility commences production after these regulations come into force, Parts I to III do not apply to the mobile offshore industrial facility until its second year of production.

116/18 s3; 19/23 s2

PART I BASELINE EMISSIONS INTENSITY, BASELINE EMISSIONS LEVEL AND PERFORMANCE BENCHMARK

Baseline emissions intensity

4. (1) For the year 2019, the baseline emissions intensity of an industrial facility, other than an offshore industrial facility or a mobile offshore industrial facility that commenced production in or before the year 2016 shall be determined in accordance with the following formula:

$$BEI = \frac{AE_{2016} + AE_{2017}}{AP_{2016} + AP_{2017}}$$

where

BEI = baseline emissions intensity for the industrial facility;

AE = the industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions and any emissions generated from a source category referred to in [paragraphs 5\(1\)\(f\) to \(i\)](#) of the *Management of Greenhouse Gas Reporting Regulations* ; and

AP = the industrial facility's actual production in a year rounded up to the nearest tonne.

(2) For the year 2020 and subsequent years, the baseline emissions intensity of an industrial facility, other than an offshore industrial facility or a mobile offshore industrial facility that commenced production in or before the year 2016 shall be determined in accordance with the

following formula:

$$BEI = \frac{AE_{2016} + AE_{2017} + AE_{2018}}{AP_{2016} + AP_{2017} + AP_{2018}}$$

where

BEI = baseline emissions intensity for the industrial facility;

AE = the industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions and any emissions generated from a source category referred to in [paragraphs 5\(1\)\(f\) to \(i\)](#) of the *Management of Greenhouse Gas Reporting Regulations* ; and

AP = the industrial facility's actual production in a year rounded up to the nearest tonne.

(3) The baseline emissions intensity of an industrial facility, other than an offshore industrial facility or a mobile offshore industrial facility that commenced production after the year 2016 or was designated as an opted-in facility after the coming into force of these regulations shall be determined in accordance with the following formulas:

$$BEI_{yr4} = \frac{AE_{yr3}}{AP_{yr3}}$$

$$BEI_{yr5} = \frac{AE_{yr3} + AE_{yr4}}{AP_{yr3} + AP_{yr4}}$$

$$BEI = \frac{AE_{yr3} + AE_{yr4} + AE_{yr5}}{AP_{yr3} + AP_{yr4} + AP_{yr5}}$$

where

BEI_{yr4} = baseline emissions intensity for the industrial facility for fourth year of production;

BEI_{yr5} = baseline emissions intensity for the industrial facility for fifth year of production;

BEI = baseline emissions intensity for the industrial facility;

AE = the industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions and any emissions generated from a source category referred to in [paragraphs 5\(1\)\(f\) to \(i\)](#) of the *Management of Greenhouse Gas Reporting Regulations* ; and

AP = the industrial facility's actual production in a year rounded up to the nearest tonne.

(4) Notwithstanding subsections (1) to (3), where an industrial facility, other than an offshore industrial facility or a mobile offshore industrial facility, has an unexpected interruption of production that has a material impact on its production in a year that is to be used to establish the industrial facility's baseline emissions intensity, the Lieutenant-Governor in Council may

- (a) exclude that year from the calculation of the baseline emissions intensity and calculate the baseline emissions intensity on fewer years; or
- (b) adjust the AP and AE in subsections (1) to (3) on a time denominated basis in a manner that attributes the period of production in a year as if it were a full year.

(5) For the year 2019, the baseline emissions intensity of a mobile offshore industrial facility that commenced production in or before the year 2016 shall be determined in accordance with the following formula:

$$BEI = \frac{AE_{2016} + AE_{2017}}{HO_{2016} + HO_{2017}}$$

where

BEI = baseline emissions intensity for the mobile offshore industrial facility;

AE = the mobile offshore industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions, any emissions generated from a source category referred to in [paragraph 5\(1\)\(j\)](#) of the *Management of Greenhouse Gas Reporting Regulations* and any emissions generated from exploration drilling activities; and

HO = the mobile offshore industrial facility's hours of operation rounded up to the nearest full hour, excluding any hours where the mobile offshore industrial facility's operations relate solely to exploration drilling activities.

(6) For the years 2020, 2021 and 2022, the baseline emissions intensity of a mobile offshore industrial facility that commenced production in or before the year 2016 shall be determined in accordance with the following formula:

$$BEI = \frac{AE_{2016} + AE_{2017} + AE_{2018}}{HO_{2016} + HO_{2017} + HO_{2018}}$$

where

BEI = baseline emissions intensity for the mobile offshore industrial facility;

AE = the mobile offshore industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions, any emissions generated from a source category referred to in [paragraph 5\(1\)\(j\)](#) of the *Management of Greenhouse Gas Reporting Regulations* and any emissions generated from exploration drilling activities; and

HO = the mobile offshore industrial facility's hours of operation rounded up to the nearest full hour, excluding any hours where the mobile offshore industrial facility's operations relate solely to exploration drilling activities.

(6.1) For the year 2023 and subsequent years, the baseline emissions intensity of a mobile offshore industrial facility that commenced production in or before the year 2016 shall be determined in accordance with the following formula:

$$BEI = \frac{AE_{2016} + AE_{2017} + AE_{2018}}{HO_{2016} + HO_{2017} + HO_{2018}}$$

where

BEI = baseline emissions intensity for the mobile offshore industrial facility;

AE = the mobile offshore industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions and any emissions generated from a source category referred to in [paragraph 5\(1\)\(j\)](#) of the *Management of Greenhouse Gas Reporting Regulations*; and

HO = the mobile offshore industrial facility's hours of operation rounded up to the nearest full hour.

(7) The baseline emissions intensity of a mobile offshore industrial facility, that commenced

production after the year 2016 but before the year 2023 or was designated as an opted-in facility after the coming into force of these regulations but before the year 2023, shall be determined in accordance with the following formulas:

$$BEI_{yr2} = \frac{AE_{yr1}}{HO_{yr1}}$$

$$BEI_{yr3} = \frac{AE_{yr1} + AE_{yr2}}{HO_{yr1} + HO_{yr2}}$$

$$BEI = \frac{AE_{yr1} + AE_{yr2} + AE_{yr3}}{HO_{yr1} + HO_{yr2} + HO_{yr3}}$$

where

BEI_{yr2} = baseline emissions intensity for the mobile offshore industrial facility for second year of production;

BEI_{yr3} = baseline emissions intensity for the mobile offshore industrial facility for third year of production;

BEI = baseline emissions intensity for the mobile offshore industrial facility;

AE = the mobile offshore industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions and any emissions generated from a source category referred to in [paragraph 5\(1\)\(j\)](#) of the *Management of Greenhouse Gas Reporting Regulations* or any emissions generated from exploration drilling activities; and

HO = the mobile offshore industrial facility's hours of operation rounded up to the nearest full hour, excluding any hours where the mobile offshore industrial facility's operations relate solely to exploration drilling activities.

(7.1) The baseline emissions intensity of a mobile offshore industrial facility, that commenced production in the year 2023 or a subsequent year or was designated as an opted-in facility in the year 2023 or a subsequent year, shall be determined in accordance with the following formulas:

$$BEI_{yr2} = \frac{AE_{yr1}}{HO_{yr1}}$$

$$BEI_{yr3} = \frac{AE_{yr1} + AE_{yr2}}{HO_{yr1} + HO_{yr2}}$$

$$BEI = \frac{AE_{yr1} + AE_{yr2} + AE_{yr3}}{HO_{yr1} + HO_{yr2} + HO_{yr3}}$$

where

BEI_{yr2} = baseline emissions intensity for the mobile offshore industrial facility for second year of production;

BEI_{yr3} = baseline emissions intensity for the mobile offshore industrial facility for third year of production;

BEI = baseline emissions intensity for the mobile offshore industrial facility;

AE = the mobile offshore industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions and any emissions generated from a source category referred to

in paragraph 5(1)(j) of the *Management of Greenhouse Gas Reporting Regulations* ; and

HO = the mobile offshore industrial facility's hours of operation rounded up to the nearest full hour.

(8) Notwithstanding subsections (5) to (7.1), where a mobile offshore industrial facility has an unexpected interruption in its operations that has a material impact on its operations in a year that is to be used to establish the mobile offshore industrial facility's baseline emissions intensity, the Lieutenant-Governor in Council may

- (a) exclude that year from the calculation of the baseline emissions intensity and calculate the baseline emissions intensity on fewer years; or
- (b) adjust the HO and AE in subsections (5) to (7.1) on a time denominated basis in a manner that attributes the period of operations in a year as if it were a full year.

(9) The operator of a mobile offshore industrial facility that has a baseline emissions intensity established under subsection (5), (6), (6.1), (7) or (7.1) shall notify the board where the mobile offshore industrial facility

- (a) exits the offshore area;
- (b) undergoes modifications or retrofitting that could impact the mobile offshore industrial facility's greenhouse gas emissions; and
- (c) returns to the offshore area 12 months or more after it exited the offshore area.

(10) Where the board determines that the modifications or retrofitting of a mobile offshore industrial facility impacts the mobile offshore industrial facility's greenhouse gas emissions, the board may recommend to the minister that the Lieutenant-Governor in Council establish a new baseline emissions intensity for the mobile offshore industrial facility.

(11) The minister may recommend to the Lieutenant-Governor in Council that a new baseline emissions intensity be established for the mobile offshore industrial facility where the minister is satisfied that

- (a) one or more of the criteria set out in subparagraphs 5.1(1)(c)(i) to (iii) is met; and
- (b) the modifications or retrofitting of the mobile offshore industrial facility impacts its greenhouse gas emissions.

(12) Where the Lieutenant-Governor in Council is satisfied that a new baseline emissions intensity should be established for the mobile offshore industrial facility, the Lieutenant-Governor in Council may establish a new baseline emissions intensity in accordance with subsection (7) or (7.1).

(13) For the purposes of subsection (7) and (7.1), the year in which the Lieutenant-Governor in Council determines that a new baseline emissions intensity should be established is considered to be year 2.

116/18 s4; 31/19 s2; 19/23 s3

Baseline industrial process emissions intensity

4.1 (1) For the year 2023 and subsequent years, the baseline industrial process emissions intensity of an industrial facility, other than an offshore industrial facility, that commenced production in or before the year 2016 shall be determined in accordance with the following formula:

$$\text{BIPEI} = \frac{\text{AIPE}_{2016} + \text{AIPE}_{2017} + \text{AIPE}_{2018}}{\text{AP}_{2016} + \text{AP}_{2017} + \text{AP}_{2018}}$$

where

BIPEI = baseline industrial process emissions intensity for the industrial facility;

AIPE = the industrial facility's actual industrial processes emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonne rounded up to the nearest tonne; and

AP = the industrial facility's actual production in a year rounded up to the nearest tonne.

(2) The baseline industrial process emissions intensity of an industrial facility, other than an offshore industrial facility, that commenced production after the year 2016 or was designated as an opted-in facility after the coming into force of this section shall be determined in accordance with the following formulas:

$$\text{BIPEI}_{\text{yr } 4} = \frac{\text{AIPE}_{\text{yr } 3}}{\text{AP}_{\text{yr } 3}}$$

$$\text{BIPEI}_{\text{yr } 5} = \frac{\text{AIPE}_{\text{yr } 3} + \text{AIPE}_{\text{yr } 4}}{\text{AP}_{\text{yr } 3} + \text{AP}_{\text{yr } 4}}$$

$$\text{BIPEI} = \frac{\text{AIPE}_{\text{yr } 3} + \text{AIPE}_{\text{yr } 4} + \text{AIPE}_{\text{yr } 5}}{\text{AP}_{\text{yr } 3} + \text{AP}_{\text{yr } 4} + \text{AP}_{\text{yr } 5}}$$

where

BIPEI_{yr4} = baseline industrial process emissions intensity for the industrial facility for fourth year of production;

BIPEI_{yr5} = baseline industrial process emissions intensity for the industrial facility for fifth year of production;

BIPEI = baseline industrial process emissions intensity for the industrial facility;

AIPE = the industrial facility's actual industrial processes emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne; and

AP = the industrial facility's actual production in a year rounded up to the nearest tonne.

(3) Notwithstanding subsections (1) and (2), where the industrial facility has an unexpected interruption of production that has a material impact on its production in a year that is to be used to establish the industrial facility's baseline industrial process emissions intensity, the Lieutenant-Governor in Council may

- (a) exclude that year from the calculation of the baseline industrial process emissions intensity and calculate the baseline industrial process emissions intensity on fewer years; or
- (b) adjust the AP and AIPE in subsections (1) and (2) on a time denominated basis in a manner that attributes the period of production in a year as if it were a full year.

19/23 s4

Per product baseline emissions intensity

5. (1) Notwithstanding sections 4 and 4.1, an operator may request the approval of the Lieutenant-Governor in Council for the baseline emissions intensity or the baseline industrial process emissions intensity or both to be calculated for each product produced at an industrial facility.

(2) The Lieutenant-Governor in Council may approve a request under subsection (1) where

- (a) the industrial facility produces 2 or more products; and
- (b) the operator provides information required under the *Management of Greenhouse Gas Reporting Regulations* on a per product basis to the satisfaction of the Lieutenant-Governor in Council.

(3) Subsection (1) does not apply to an industrial facility with a greenhouse gas reduction target based on a performance benchmark.

116/18 s5; 19/23 s5

New baseline emissions intensity and baseline industrial process emissions intensity

5.1 (1) The Lieutenant-Governor in Council may establish a new baseline emissions intensity or a new baseline industrial process emissions intensity or both for an industrial facility where

- (a) the industrial facility installs new machinery or equipment;
- (b) either
 - (i) the operator requests a new baseline emissions intensity or a new baseline industrial process emissions intensity or both; or
 - (ii) the minister recommends that a new baseline emissions intensity or a new baseline industrial process emissions intensity or both be established; and
- (c) the Lieutenant-Governor in Council is satisfied based on the information provided by the operator or the minister that as a result of the installation of the machinery or equipment one or more of the following criteria are met:
 - (i) there was a change in the NAICS code for the industrial facility at the 3 digit level and the reasons for the change are valid and reasonable,
 - (ii) either or both of the following apply:
 - (A) the emissions intensity of the industrial facility differs from the baseline emissions intensity of the industrial facility by at least 25%, or
 - (B) the industrial process emissions intensity of the industrial facility differs from the baseline industrial process emissions intensity of the industrial facility by at least 25%,and the change in the emissions intensity or industrial process emissions intensity is permanent,
 - (iii) either or both of the following apply:
 - (A) the emissions intensity of the industrial facility differs from the baseline emissions intensity of the industrial facility by less than 25%, or
 - (B) the industrial process emissions intensity of the industrial facility differs from the baseline industrial process emissions intensity of the industrial facility by less than 25%,and the change in the emissions intensity or industrial process emissions intensity is permanent and does not result from
 - (C) routine maintenance, repair or replacement of machinery or equipment,

including the installation of machinery or equipment that is installed primarily to increase energy efficiency,

(D) an increase in production rate, or

(E) the relocation of activities within the industrial facility.

(2) Where the Lieutenant-Governor in Council requests information or documentation, the information or documentation shall be provided to the Lieutenant-Governor in Council within 45 days of the request or a longer period as determined by the Lieutenant-Governor in Council.

(3) Where the Lieutenant-Governor in Council determines that a new baseline emissions intensity or a new baseline industrial process emissions intensity or both should be established

(a) the existing baseline emissions intensity or existing baseline industrial process emissions intensity or both shall continue to apply except in relation to the new machinery and equipment; and

(b) a new baseline emissions intensity or a new baseline industrial process emissions intensity or both shall be established in accordance with subsection 4(3) and 4.1(2), as applicable, in relation to the new machinery and equipment.

19/23 s6

Baseline emissions level

6. (1) For the year 2019, the baseline emissions level for an offshore industrial facility that commenced production in or before the year 2016 shall be calculated in accordance with the following formula:

$$BEL = \frac{AE_{2016} + AE_{2017}}{2}$$

where

BEL = baseline emissions level for the offshore industrial facility; and

AE = the offshore industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions and any venting emissions and fugitive emissions generated from a source category referred to in paragraph 5(1)(j) of the *Management of Greenhouse Gas Reporting Regulations*.

(2) For the year 2020 and subsequent years, the baseline emissions level for an offshore industrial facility that commenced production in or before the year 2016 shall be calculated in accordance with the following formula:

$$BEL = \frac{AE_{2016} + AE_{2017} + AE_{2018}}{3}$$

where

BEL = baseline emissions level for the offshore industrial facility; and

AE = the offshore industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne excluding biomass emissions and any venting emissions and fugitive emissions generated from a source category referred to in paragraph 5(1)(j) of the *Management of Greenhouse Gas Reporting Regulations*.

(3) The baseline emissions level of an offshore industrial facility that commenced production after the year 2016 or was designated as an opted-in facility after the coming into force of these regulations shall be determined in accordance with the following formulas:

$$BEL_{\text{yr4}} = \frac{AE_{\text{yr3}}}{1}$$

$$BEL_{\text{yr5}} = \frac{AE_{\text{yr3}} + AE_{\text{yr4}}}{2}$$

$$BEL = \frac{AE_{\text{yr3}} + AE_{\text{yr4}} + AE_{\text{yr5}}}{3}$$

where

BEL_{yr4} = baseline emissions level for the offshore industrial facility for fourth year of production;

BEL_{yr5} = baseline emissions level for the offshore industrial facility for fifth year of production;

BEL = baseline emissions level for the offshore industrial facility; and

AE = the offshore industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne excluding biomass emissions and any venting emissions and fugitive emissions generated from a source category referred to in [paragraph 5\(1\)\(j\)](#) of the *Management of Greenhouse Gas Reporting Regulations*.

(4) Notwithstanding subsections (1) to (3), where an offshore industrial facility experiences an unexpected interruption of production that has a material impact on its production in a year that is to be used to establish the offshore industrial facility's baseline emissions level, the Lieutenant-Governor in Council may

- (a) exclude that year from the calculation of the baseline emissions level and calculate the baseline emissions level on fewer years; or
- (b) adjust the AE in subsections (1) to (3) on a time denominated basis in a manner that attributes the period of production in a year as if it were a full year.

116/18 s6; 19/23 s7

New baseline emissions level

6.1 (1) The Lieutenant-Governor in Council may establish a new baseline emissions level for an offshore industrial facility where

- (a) the industrial facility installs new machinery or equipment;
- (b) either
 - (i) the operator requests a new baseline emissions level, or
 - (ii) the minister recommends that a new baseline emissions level be established; and
- (c) the Lieutenant-Governor in Council is satisfied based on the information provided by the operator or the minister that as a result of the installation of the machinery or equipment one or more of the following criteria are met:
 - (i) there was a change in the NAICS code for the industrial facility at the 3 digit level

and the reasons for the change are valid and reasonable,

(ii) the emissions level of the offshore industrial facility differs from the baseline emissions level of the offshore industrial facility by at least 25% and the change in the emissions level is permanent, or

(iii) the emissions level of the offshore industrial facility differs from the baseline emissions level of the offshore industrial facility by less than 25% and the change in the emissions level is permanent and does not result from

(A) routine maintenance, repair or replacement of machinery or equipment, including the installation of machinery or equipment that is installed primarily to increase energy efficiency,

(B) an increase in production rate, or

(C) the relocation of activities within the industrial facility.

(2) Where the Lieutenant-Governor in Council requests information or documentation, the information or documentation shall be provided to the Lieutenant-Governor in Council within 45 days of the request or a longer period as determined by the Lieutenant-Governor in Council.

(3) Where the Lieutenant-Governor in Council determines that a new baseline emissions level should be established

(a) the existing baseline emissions level shall continue to apply except in relation to the new machinery and equipment; and

(b) a new baseline emissions level shall be established in accordance with subsection 6(3) in relation to the new machinery and equipment.

31/19 s3; 19/23 s8

Performance benchmark

7. (1) A performance benchmark shall be determined by ranking the intensity based performance of all comparable facilities, including the industrial facility requesting a performance benchmark, from lowest to highest.

(2) The intensity based performance of a comparable facility is calculated by

(a) dividing the comparable facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions;

by

(b) the comparable facility's actual throughput.

(3) For the purposes of subsection (2), the information for

(a) paragraph (2)(a) shall be based on Environment and Climate Change Canada's Greenhouse Gas Reporting Program or where the comparable facility is located the United States, the United States Environmental Protection Agency's Greenhouse Gas Reporting Program; and

(b) paragraph (2)(b) shall be based on Environment and Climate Change Canada's Air Quality Management System or where the comparable facility is located in the United States, the United States Environmental Protection Agency's Air Quality System.

(4) Where the operator of an industrial facility is of the opinion that the primary energy source used by the industrial facility is used by less than 10% of comparable facilities, the operator may request the approval of the Lieutenant-Governor in Council to convert, on a british thermal unit basis, that energy source used by the industrial facility to the energy source used by the majority of the comparable facilities.

(5) A request under subsection (4), shall include evidence from an independent consultant qualified under ISO 14064-3 or 14065 confirming that

- (a) the requested energy source conversion satisfies the requirement in subsection (4); and
- (b) the energy source conversion information is verified and accurate.

(6) Where the Lieutenant-Governor in Council is satisfied with the evidence provided under subsection (5), the Lieutenant-Governor in Council may approve the request and the industrial facility shall be ranked using the converted energy source.

(7) A performance benchmark shall be adjusted annually or where data is not available annually, at least every 3 years.

116/18 s7

PART II GREENHOUSE GAS REDUCTION TARGETS

Greenhouse gas reduction target

8. (1) The greenhouse gas reduction target for an industrial facility to which these regulations apply shall be as follows:

- (a) for the year 2019 the greenhouse gas reduction target is 6% below the industrial facility's baseline emissions intensity or baseline emissions level;
- (b) for the year 2020 the greenhouse gas reduction target is 8% below the industrial facility's baseline emissions intensity or baseline emissions level;
- (c) for the year 2021 the greenhouse gas reduction target is 10% below the industrial facility's baseline emissions intensity or baseline emissions level;
- (d) for the year 2022 the greenhouse gas reduction target is 12% below the industrial facility's baseline emissions intensity or baseline emissions level;
- (e) for the year 2023 the greenhouse gas reduction target is 14% below the industrial facility's baseline emissions intensity or baseline emissions level and 0% below the baseline industrial process emissions intensity;
- (f) for the year 2024 the greenhouse gas reduction target is 16% below the industrial facility's baseline emissions intensity or baseline emissions level and 0% below the baseline industrial process emissions intensity;
- (g) for the year 2025 the greenhouse gas reduction target is 18% below the industrial facility's baseline emissions intensity or baseline emissions level and 0% below the baseline industrial process emissions intensity;
- (h) for the year 2026 the greenhouse gas reduction target is 20% below the industrial facility's baseline emissions intensity or baseline emissions level and 0% below the baseline industrial process emissions intensity;

- (i) for the year 2027 the greenhouse gas reduction target is 22% below the industrial facility's baseline emissions intensity or baseline emissions level and 0% below the baseline industrial process emissions intensity;
- (j) for the year 2028 the greenhouse gas reduction target is 24% below the industrial facility's baseline emissions intensity or baseline emissions level and 0% below the baseline industrial process emissions intensity;
- (k) for the year 2029 the greenhouse gas reduction target is 26% below the industrial facility's baseline emissions intensity or baseline emissions level and 0% below the baseline industrial process emissions intensity; and
- (l) for the year 2030 and subsequent years the greenhouse gas reduction target is 28% below the industrial facility's baseline emissions intensity or baseline emissions level and 0% below the baseline industrial process emissions intensity.

(2) Notwithstanding subsection (1), the greenhouse gas reduction target for an industrial facility, other than a mobile offshore industrial facility, that commenced production in 2015 or a subsequent year is set out in Schedule A.

(2.1) Notwithstanding subsection (1), the greenhouse gas reduction target for an industrial facility for which a new baseline emissions intensity or a new baseline industrial process emissions intensity or both was established under paragraph 5.1(3)(b) or a new baseline emissions level was established under paragraph 6.1(3)(b) is set out in Schedule A and for the purposes of this subsection the commencement year in Schedule A shall be considered to be the year in which

- (a) the new baseline emissions intensity or the new baseline industrial process emissions intensity or both was established; or
- (b) the new baseline emissions level was established.

(3) Where an industrial facility's baseline emissions intensity or baseline industrial process emissions intensity or both is calculated on a per product basis, a greenhouse gas reduction target shall be calculated per product in accordance with this section and the industrial facility's greenhouse gas reduction target shall be the sum of the per product greenhouse gas reduction targets weighted according to the share of total production for each product.

(4) Notwithstanding subsections (1) to (3), an industrial facility, other than a mobile offshore industrial facility, may request the approval of the Lieutenant-Governor in Council for a greenhouse gas reduction target based on a performance benchmark rather than baseline emissions intensity and baseline industrial process emissions intensity.

(5) A request under subsection (4) shall be submitted no later than June 30 of the calendar year preceding the calendar year in which the greenhouse gas reduction target is to apply.

(6) Notwithstanding subsection (5), a request under subsection (4) relating to the calendar year 2019 shall be submitted on or before March 1, 2019.

(7) A request under subsection (4) shall include evidence from an independent consultant qualified under ISO 14064-3 or 14065 confirming that a performance benchmark can be objectively and reasonably developed based on the number of comparable facilities.

(8) Where the Lieutenant-Governor in Council is satisfied with the evidence provided under subsection (7), the Lieutenant-Governor in Council may approve the request and, where approved, the greenhouse gas reduction target for the industrial facility shall be set at the top tercile of all comparable facilities in the performance benchmark.

- (9) An industrial facility that has a greenhouse gas reduction target based on a performance

benchmark for at least 5 calendar years may change to a greenhouse gas reduction target based on baseline emissions intensity by giving the minister at least 6 months notice before the calendar year in which the greenhouse gas reduction target is to apply.

116/18 s8; 31/19 s4; 19/23 s9

PART III GREENHOUSE GAS REDUCTION CREDITS

Greenhouse gas reduction credits

9. (1) A greenhouse gas reduction credit is equal to one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis.

(2) Each greenhouse gas reduction credit is recorded with a unique serialized number in the registry in accordance with these regulations.

(3) A greenhouse gas reduction credit may only be used by the owner of the greenhouse gas reduction credit and shall be serialized before use.

(4) Greenhouse gas reduction credits may be used by an operator to achieve

(a) 100% of the industrial facility's greenhouse gas reduction target in the year 2019;

(b) 90% of the industrial facility's greenhouse gas reduction target in the year 2020;

(c) 85% of the industrial facility's greenhouse gas reduction target in the year 2021; and

(d) 80% of the industrial facility's greenhouse gas reduction target in the year 2022 and subsequent years.

(5) Notwithstanding subsection (4), an operator may use performance credits earned at the industrial facility to achieve the remaining

(a) 10% of the industrial facility's greenhouse gas reduction target in the year 2020;

(b) 15% of the industrial facility's greenhouse gas reduction target in the year 2021; and

(c) 20% of the industrial facility's greenhouse gas reduction target in the year 2022 and subsequent years.

(6) Notwithstanding subsection (4), an offshore industrial facility or a mobile offshore industrial facility may use greenhouse gas reduction credits to achieve 100% of its greenhouse gas reduction target.

(7) Notwithstanding subsection (4), an operator may purchase fund credits at the price prescribed in subsection 12(3) multiplied by 4 to achieve the remaining

(a) 10% of the industrial facility's greenhouse gas reduction target in the year 2020;

(b) 15% of the industrial facility's greenhouse gas reduction target in the year 2021; and

(c) 20% of the industrial facility's greenhouse gas reduction target in the year 2022 and subsequent years.

(8) The minister shall retire greenhouse gas reduction credits used by an industrial facility to achieve its greenhouse gas reduction target.

Performance credits

10. (1) The minister may issue performance credits to an industrial facility in accordance with this section.

(2) Where an industrial facility, other than a mobile offshore industrial facility, has a greenhouse gas reduction target based on baseline emissions intensity, the number of performance credits that the minister may issue to the industrial facility for a year shall be calculated in accordance with the following formula:

$$PC = (RT \times AP) - AE$$

where

PC = the number of performance credits, expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne;

RT = the industrial facility's greenhouse gas reduction target calculated in accordance with [section 8](#);

AP = the industrial facility's actual production in a year rounded up to the nearest tonne; and

AE = the industrial facility's actual greenhouse gas emissions expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne, excluding biomass emissions and any emissions generated from a source category referred to in [paragraphs 5\(1\)\(f\) to \(i\)](#) of the *Management of Greenhouse Gas Reporting Regulations* .

(2.01) Where an industrial facility has a greenhouse gas reduction target based on baseline emissions intensity and baseline industrial process emissions intensity, the number of performance credits that the minister may issue to the industrial facility for a year shall be calculated in accordance with the following formula:

$$PC = [(RT_{bei} \times AP) - AE] + [(RT_{bipei} \times AP) - AIPE]$$

where

PC = the number of performance credits, expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne;

RT_{bei} = the portion of the industrial facility's greenhouse gas reduction target based on baseline emissions intensity calculated in accordance with [section 8](#);

AP = the industrial facility's actual production in a year rounded up to the nearest tonne;

AE = the industrial facility's actual greenhouse gas emissions expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne, excluding biomass emissions and any industrial process emissions;

RT_{bipei} = the portion of the industrial facility's greenhouse gas reduction target based on the baseline industrial process emissions intensity calculated in accordance with [section 8](#); and

AIPE = the industrial facility's actual industrial process emissions expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne.

(2.1) The number of performance credits that the minister may issue to a mobile offshore industrial facility for a year shall be calculated in accordance with the following formula:

$$PC = (RT \times HO) - AE$$

where

PC = the number of performance credits, expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne;

RT = the mobile offshore industrial facility's greenhouse gas reduction target calculated in accordance with [section 8](#);

HO = the mobile offshore industrial facility's hours of operation rounded up to the nearest full hour, excluding any hours where the mobile offshore industrial facility's operation relate solely to exploration drilling activities; and

AE = the mobile offshore industrial facility's actual emissions of carbon dioxide equivalent of greenhouse gases in a year expressed in tonnes rounded up to the nearest tonne, excluding biomass emissions, any emissions generated from a source category referred to in [paragraph 5\(1\)\(j\)](#) of the *Management of Greenhouse Gas Reporting Regulations* and any emissions generated from exploration drilling activities.

(3) For the purposes of calculating performance credits which may be earned by the Holyrood Generating Station

(a) the Holyrood Generating Station shall be deemed to continue to have its greenhouse gas reduction target;

(b) AP in subsection (2) shall be deemed production as set out in Schedule B; and

(c) AE in subsection (2) shall be deemed to be zero in each year after the closure of the Holyrood Generating Station.

(4) Subsection (3) only applies as long as the operator of the Holyrood Generating Station continues to provide electricity from an industrial facility in the province.

(5) Notwithstanding subsection (4), the Lieutenant-Governor in Council may approve a transitional period during which electricity may be provided from an industrial facility outside the province.

(6) The number of performance credits that the minister may issue to an offshore industrial facility for a year shall be calculated in accordance with the following formula:

$$PC = RT - AE$$

where

PC = the number of performance credits, expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne;

RT = the offshore industrial facility's greenhouse gas reduction target calculated in accordance with subsection 8(1);

AE = the industrial facility's actual greenhouse gas emissions expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne, excluding biomass emissions and any venting emissions and fugitive emissions generated from a source category referred to in [paragraph 5\(1\)\(j\)](#) of the *Management of Greenhouse Gas Reporting Regulations* .

(6.1) Notwithstanding subsection (6), where an offshore industrial facility is ordered by the board to stop production during any period during a year or an offshore industrial facility voluntarily

stops production for a period of 31 consecutive days or more during a year, performance credits shall not be issued to the offshore industrial facility for that year.

(6.2) Notwithstanding subsection (6.1), where the offshore industrial facility provides to the minister verified data regarding the offshore industrial facility's actual greenhouse gas emissions during the period in the year that production was not stopped, the minister may

- (a) adjust AE in the calculation in subsection (6) on a time denominated basis in a manner that attributes the period of emissions in a year as if it were a full year;
- (b) use the adjusted AE in the formula in subsection (6) to determine the number of performance credits to be issued to the offshore industrial facility for the year; and
- (c) issue the performance credits to the offshore industrial facility for the year.

(7) Where an industrial facility has a greenhouse gas reduction target based on a performance benchmark and is in the top quartile of the performance benchmark, the number of performance credits that the minister may issue to the industrial facility for a year shall be calculated in accordance with the following formula:

$$PC = (TQPB \times AP) - AE$$

where

PC = the number of performance credits, expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne;

TQPB = the top quartile of the performance benchmark;

AP = the industrial facility's actual production in a year rounded up to the nearest tonne; and

AE = the industrial facility's actual greenhouse gas emissions expressed in tonnes on a carbon dioxide equivalent basis rounded up to the nearest tonne, excluding biomass emissions.

(8) Where the minister determines that the industrial facility is eligible for performance credits the minister shall

- (a) create and assign serial numbers to the performance credits;
- (b) record the performance credits in the registry; and
- (c) notify the industrial facility of the serial numbers of its performance credits.

(9) A performance credit that is not used to achieve an industrial facility's greenhouse gas reduction target shall expire 7 years after it is created.

(10) Where an industrial facility that was issued performance credits in respect of a year submits a revised emissions report within 7 years of submitting the original emissions report and based on the revised emissions report it is determined that the industrial facility was entitled to more performance credits than the industrial facility received, the minister may issue the additional performance credits to the industrial facility.

(11) Where an industrial facility that was issued performance credits in respect of a year submits a revised emissions report within 7 years of submitting the original emissions report and based on the revised emissions report it is determined that the industrial facility was entitled to less performance credits than the industrial facility received, the minister may

- (a) retire the number of performance credits that the industrial facility received in excess of the number to which the industrial facility was entitled based on the revised emissions report; or
- (b) where the industrial facility does not have the number of performance credits referred to in paragraph (a), either
 - (i) withhold that number of performance credits from performance credits to be issued to the industrial facility in a future year, or
 - (ii) require that the industrial facility purchase fund credits at the price of the fund credits in the year in which the performance credits were issued to the industrial facility.

116/18 s10; 31/19 s6; 19/23 s10

Transfer of performance credits

11. (1) Performance credits may be transferred from the operator of an industrial facility to the operator of another industrial facility but the transfer is not effective until it is recorded in the registry.

(2) The operators involved in a transfer of performance credits shall provide the following information in the form determined by the minister:

- (a) the quantity of performance credits being transferred and the serial number of each performance credit being transferred;
- (b) the name of the operator transferring the performance credits and the name of the operator receiving the performance credits;
- (c) the name of the individual designated to transfer the performance credits on behalf of the operator;
- (d) confirmation from the operator transferring the performance credits and the operator receiving the performance credits that the transfer has been authorized;
- (e) the date of the transfer; and
- (f) any other information required by the minister.

116/18 s11

Fund credits

12. (1) An operator may purchase fund credits by contributing money to the fund.

(2) An operator shall not purchase more fund credits than required to achieve all or a portion of the industrial facility's greenhouse gas reduction target as permitted under these regulations.

(3) The purchase price of fund credits shall be as follows:

- (a) \$20 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2019;
- (b) \$30 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2020;
- (c) \$40 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2021;

- (d) \$50 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2022;
 - (e) \$65 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2023;
 - (f) \$80 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2024;
 - (g) \$95 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2025;
 - (h) \$110 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2026;
 - (i) \$125 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2027;
 - (j) \$140 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2028;
 - (k) \$155 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2029; and
 - (l) \$170 per one tonne of greenhouse gas emissions on a carbon dioxide equivalent basis for reporting year 2030 and subsequent years.
- (4) Where an operator purchases fund credits the minister shall
- (a) create and assign serial numbers to the fund credits;
 - (b) record the fund credits in the registry; and
 - (c) notify the industrial facility of the serial numbers of its fund credits.
- (5) A fund credit purchased for a reporting year shall only be used in that reporting year.
- (6) Notwithstanding subsection (5), a fund credit may be purchased for use in a previous year where an industrial facility submitted a revised emissions report for a previous year and the industrial facility required additional fund credits to achieve all or a portion of its greenhouse gas reduction target as permitted under these regulations.
- (7) Where subsection (6) applies, the cost of the fund credits shall be
- (a) the cost in the reporting year for which the fund credit is purchased; or
 - (b) where subsection 9(7) applies, 4 times the cost of the fund credit in the reporting year for which it is purchased.
- (8) A fund credit is non-transferable and non-refundable.
- (9) Where an industrial facility that purchased fund credits to achieve all or a portion of the industrial facility's greenhouse gas reduction target in respect of a year submits a revised emissions report and based on the revised emissions report it is determined that the industrial facility did not need some or all of the fund credits it purchased, the minister may issue
- (a) one performance credit for each excess fund credit that the industrial facility purchased at the price prescribed in subsection (3); and

- (b) 4 performance credits for each excess fund credit that the industrial facility purchased at the price prescribed in subsection 9(7).

(10) For the purposes of subsection 9(5), performance credits issued under subsection (9) are considered to have been earned at the industrial facility.

116/18 s12; 19/23 s11

Where exemption granted

12.01 Where an industrial facility was granted an exemption from the Act under subsection 4(2) of the Act or an exemption from achieving its annual greenhouse gas emissions reduction target under subsection 5(4) of the Act, the operator may

- (a) sell any performance credits owned by the industrial facility as of the date of the exemption; and
- (b) purchase greenhouse gas reduction credits to achieve its greenhouse gas reduction target for the last year that the industrial facility was not exempted.

19/23 s12

PART III.1 BEST AVAILABLE CONTROL TECHNOLOGY

Best available control technology

12.1 (1) Where a person registers an industrial facility to which these regulations may apply, other than an offshore industrial facility or a mobile offshore industrial facility, in accordance with the *Environmental Protection Act*, the person shall, on the date the industrial facility is registered, provide information regarding best available control technology to the minister.

(2) Where a person submits a project description in accordance with legislation that requires an environmental assessment in relation to an offshore industrial facility or a mobile offshore industrial facility to which these regulations may apply, the person shall, on the date the project description is submitted, provide information regarding best available control technology to the board.

(3) Where information is provided under subsection (1) or (2), the industrial facility is required to employ best available control technology in accordance with this Part in the operation of the industrial facility.

(4) An industrial facility is considered to meet the best available control technology requirements where the Lieutenant-Governor in Council is satisfied that the combination of machinery and equipment in the industrial facility

- (a) has the most effective greenhouse gas emissions control;
- (b) has proven performance and reliability in comparable industrial facilities;
- (c) is economically feasible, based on consultation with the operator; and
- (d) complies with an Act or regulation relating to air pollution, occupational health and safety and fire and life safety.

(5) Notwithstanding subsection (4), where the industrial facility is an offshore industrial facility or mobile offshore industrial facility, the industrial facility is considered to meet the best available control technology requirements where the Lieutenant-Governor in Council is satisfied that the combination of machinery and equipment in the industrial facility

- (a) has the most effective greenhouse gas emissions control;
- (b) has proven performance and reliability in comparable industrial facilities;
- (c) is economically feasible, based on consultation with the operator;
- (d) complies with an Act or regulation relating to air pollution, occupational health and safety and fire and life safety; and
- (e) is acceptable to the board as the best available control technology for the industrial facility.

31/19 s7

PART IV PAYMENTS FROM FUND

Payments from the fund

13. (1) In determining whether to authorize a payment from the fund under section 7 of the Act the minister and the advisory council shall consider

- (a) the impact that the proposed project for which the money is being requested may have on climate change and the reduction of greenhouse gas emissions in the province;
- (b) the quality of the evidence provided by the operator to demonstrate that the money will achieve a verifiable reduction in greenhouse gas emissions in a reasonable period of time;
- (c) the scientific, technical and operational evidence provided in support of the application;
- (d) the cost effectiveness of the proposed project for which the money is being requested in relation to the proposed reduction in greenhouse gas emissions; and
- (e) the economic and social benefits that may accrue as a result of the proposed project for which the money is being requested.

(2) Where the minister authorizes a payment from the fund the minister shall enter into a funding agreement with the person receiving the money.

(3) The funding agreement referred to in subsection (2) may

- (a) specify the time period in which the proposed project for which the money is being requested shall be completed;
- (b) impose terms and conditions on the operator in relation to the use of the money received from the fund; and
- (c) contain other requirements as determined by the minister.

116/18 s13

Discontinuance of payments

14. (1) The minister may discontinue payments from the fund under [section 13](#) where the operator who received the money

- (a) does not implement the proposed project in the manner outlined in the funding agreement referred to in subsection 13(2);

- (b) does not take reasonable steps within a reasonable period of time to complete the proposed project;
- (c) contravenes a term or condition of the funding agreement; or
- (d) ceases operation.

(2) Where the minister discontinues payments under subsection (1), the minister may also seek repayment of all the money received by the operator for that project.

116/18 s14

PART V REGISTRY

Registry

15. (1) The minister shall establish and maintain a registry for industrial facilities and opted-in facilities referred to in section 5 of the Act.

(2) Each industrial facility referred to in subsection (1) shall have an account on the registry which shall contain information including

- (a) the serial numbers of the greenhouse gas reduction credits owned by the industrial facility;
- (b) the dates the greenhouse gas reduction credits were created and deposited into the industrial facility's account;
- (c) the date of a transfer of performance credits;
- (d) the serial numbers of the performance credits transferred;
- (e) the name of the person at the industrial facility who authorized the transfer referred to in paragraph (d);
- (f) the serial numbers of greenhouse gas reduction credits used for compliance; and
- (g) the date greenhouse gas reduction credits were used in accordance with subsection 9(8) or expired in accordance with subsection 10(9) or 12(5).

(3) The information in an industrial facility's account is confidential and only accessible to the operator.

(4) The registry shall also contain the following information which shall be publicly available:

- (a) the name and address of the industrial facility;
- (b) the name of the operator of the industrial facility;
- (c) the number of performance credits owned by the industrial facility;
- (d) the serial numbers of the performance credits owned by the industrial facility; and
- (e) the name of the person at the industrial facility authorized to transfer performance credits.

116/18 s15

**PART VI
ADVISORY COUNCIL**

Rep. by 80/21 s1

16. [Rep. by 80/21 s1]

80/21 s1

**PART VII
APPEALS**

Appeal to minister

17. (1) A person who is aggrieved by an order or a decision made under the Act or these regulations may appeal that order or decision to the minister by notice in writing, within 60 days of receipt of that decision or order, stating the reasons for the appeal.

(2) The minister shall notify the appellant, in writing, of the minister's decision within 30 days of receipt of the notice of appeal.

(3) The minister may dismiss the appeal, allow the appeal or make another order or decision that may be made under the Act or these regulations.

116/18 s17; 19/23 s13

Appeal to Supreme Court

18. (1) A person aggrieved by an order or decision of the minister under the Act or these regulations may, within 30 days of the order or the decision appeal, on a question of law or on a question of mixed law and fact, to the Supreme Court and the decision of the Supreme Court is final.

(2) Notwithstanding a rule or practice to the contrary, a notice of appeal shall

(a) set out in detail the allegations of the appellant and the grounds upon which the order or decision is appealed against; and

(b) be signed by the appellant or the appellant's solicitor.

(3) An appellant shall, within 30 days after the service of the notice of appeal under this section, apply to a judge for the appointment of a day for the hearing of the appeal and shall, not fewer than 30 days before the hearing, serve upon the minister or deputy minister a written notice of the day appointed for the hearing.

(4) The minister shall produce before the judge hearing the appeal all papers and documents in the minister's possession affecting the matter of the appeal.

(5) Where an appellant does not comply with subsection (3) the notice of appeal shall be considered void and the order or decision being appealed shall be considered to be final.

(6) The judge shall hear an appeal made under subsection (1) and the evidence brought forward by the appellant and the Crown in a summary manner and shall decide the matter of the appeal by

(a) upholding, amending or revoking the order or decision; or

(b) making another order or decision that the judge considers proper in the circumstance.

(7) An appeal made under this section shall be dismissed by the Supreme Court if the sole ground for relief established on the appeal is a defect in form or a technical irregularity.

(8) A judge may make an order as to costs for or against the appellant or the Crown and may fix the amount of those costs.

(9) An appeal may be taken from a decision of a judge of the Supreme Court to the Court of Appeal on a point of law raised upon the hearing of the appeal by the judge of the Supreme Court.

(10) The filing of an appeal under this section or [section 17](#) shall not affect the order or decision appealed from and the order shall remain in force pending the outcome of the appeal.

116/18 s18; 19/23 s14

Civil remedy

19. A civil remedy for an act or omission is not suspended or affected by reason only that the act or omission is an offence under the Act or these regulations or gives rise to a remedy under the Act or these regulations, and nothing in the Act or these regulations shall be considered to repeal, reduce or remove a remedy available to a person under another Act of the province, at common law or under an Act of the government of Canada or of another province of Canada.

116/18 s19

Service

20. A notice, order or document under the Act or these regulations is sufficiently given or served where it is given

(a) to a person other than a corporation, by

(i) personal delivery,

(ii) registered mail or other mail delivery which produces a receipt or other proof of delivery, to the last known address of the person, or

(iii) facsimile telecommunication or other electronic communication; and

(b) to a corporation, by

(i) personal delivery to a director or chief executive officer of the corporation, or

(ii) registered mail or other mail delivery which produces a receipt or other proof of delivery, to the registered office of the corporation.

116/18 s20

PART VIII COMMENCEMENT

Commencement

21. These regulations come into force on January 1, 2019 .

116/18 s21

Schedule A

Industrial Facility Commenced Production in 2015

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2019 | 2.4% | N/A |
| 2020 | 4.8% | N/A |
| 2021 | 8% | N/A |
| 2022 | 12% | N/A |
| 2023 | 14% | 0% |
| 2024 | 16% | 0% |
| 2025 | 18% | 0% |
| 2026 | 20% | 0% |
| 2027 | 22% | 0% |
| 2028 | 24% | 0% |
| 2029 | 26% | 0% |
| 2030 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2016

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2019 | 1.2% | N/A |
| 2020 | 3.2% | N/A |
| 2021 | 6% | N/A |
| 2022 | 9.6% | N/A |
| 2023 | 14% | 0% |
| 2024 | 16% | 0% |
| 2025 | 18% | 0% |
| 2026 | 20% | 0% |
| 2027 | 22% | 0% |
| 2028 | 24% | 0% |
| 2029 | 26% | 0% |
| 2030 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2017

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|------|---|--|
| 2020 | 1.6% | N/A |
| 2021 | 4% | N/A |
| 2022 | 7.2% | N/A |
| 2023 | 11.2% | 0% |
| 2024 | 16% | 0% |
| 2025 | 18% | 0% |
| 2026 | 20% | 0% |

| | | |
|---------------------------|-----|----|
| 2027 | 22% | 0% |
| 2028 | 24% | 0% |
| 2029 | 26% | 0% |
| 2030 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2018

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2021 | 2% | N/A |
| 2022 | 4.8% | N/A |
| 2023 | 8.4% | 0% |
| 2024 | 12.8% | 0% |
| 2025 | 18% | 0% |
| 2026 | 20% | 0% |
| 2027 | 22% | 0% |
| 2028 | 24% | 0% |
| 2029 | 26% | 0% |
| 2030 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2019

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2022 | 2.4% | N/A |
| 2023 | 5.6% | 0% |
| 2024 | 9.6% | 0% |
| 2025 | 14.4% | 0% |
| 2026 | 20% | 0% |
| 2027 | 22% | 0% |
| 2028 | 24% | 0% |
| 2029 | 26% | 0% |
| 2030 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2020

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------|---|--|
| 2023 | 2.8% | 0% |
| 2024 | 6.4% | 0% |
| 2025 | 10.8% | 0% |
| 2026 | 16% | 0% |
| 2027 | 22% | 0% |
| 2028 | 24% | 0% |
| 2029 | 26% | 0% |
| 2030 and subsequent | 28% | 0% |

| | | |
|-------|--|--|
| years | | |
|-------|--|--|

Industrial Facility Commenced Production in 2021

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2024 | 3.2% | 0% |
| 2025 | 7.2% | 0% |
| 2026 | 12% | 0% |
| 2027 | 17.6% | 0% |
| 2028 | 24% | 0% |
| 2029 | 26% | 0% |
| 2030 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2022

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2025 | 3.6% | 0% |
| 2026 | 8% | 0% |
| 2027 | 13.2% | 0% |
| 2028 | 19.2% | 0% |
| 2029 | 26% | 0% |
| 2030 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2023

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2026 | 4% | 0% |
| 2027 | 8.8% | 0% |
| 2028 | 14.4% | 0% |
| 2029 | 20.8% | 0% |
| 2030 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2024

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2027 | 4.4% | 0% |
| 2028 | 9.6% | 0% |
| 2029 | 15.6% | 0% |
| 2030 | 22.4% | 0% |
| 2031 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2025

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2028 | 4.8% | 0% |
| 2029 | 10.4% | 0% |
| 2030 | 16.8% | 0% |
| 2031 | 22.4% | 0% |
| 2032 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2026

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|---------------------------|---|--|
| 2029 | 5.2% | 0% |
| 2030 | 11.2% | 0% |
| 2031 | 16.8% | 0% |
| 2032 | 22.4% | 0% |
| 2033 and subsequent years | 28% | 0% |

Industrial Facility Commenced Production in 2027 or subsequent years

| Year | Percentage reduction below industrial facility's baseline emissions intensity or baseline emissions level | Percentage reduction below industrial facility's baseline industrial process emissions intensity |
|-----------------------------|---|--|
| Year 4 | 5.6% | 0% |
| Year 5 | 11.2% | 0% |
| Year 6 | 16.8% | 0% |
| Year 7 | 22.4% | 0% |
| Year 8 and subsequent years | 28% | 0% |

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Schedule B

| Year | Projected Gross Production (GWh) |
|------|----------------------------------|
| 2019 | 1,682 |
| 2020 | 1,562 |
| 2021 | 1,524 |
| 2022 | 1,489 |
| 2023 | 1,603 |
| 2024 | 1,668 |
| 2025 | 1,679 |
| 2026 | 1,626 |
| 2027 | 1,695 |
| 2028 | 1,740 |
| 2029 | 1,770 |

| | |
|------|-------|
| 2030 | 1,773 |
| 2031 | 1,720 |
| 2032 | 1,771 |
| 2033 | 1,349 |
| 2034 | 924 |
| 2035 | 927 |
| 2036 | 546 |

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