

**NEWFOUNDLAND AND LABRADOR
REGULATION 79/01**

Petroleum Products Regulations
under the
[*Petroleum Products Act*](#)
(O.C. 2001-705)

Amended by:

[2004 c28 s9](#)

89/06

1/10

28/15

82/19

34/22

48/23

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[*Petroleum Products Act*](#)
(O.C. 2001-705)

(Filed November 16, 2001)

Under the authority of [section 23](#) of the [*Petroleum Products Act*](#), the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's , November 16, 2001 .

Deborah E. Fry
Clerk of the Executive Council

Short title

1. These regulations may be cited as the *Petroleum Products Regulations*.

Definitions

2. In these regulations

- (a) "Act" means the [Petroleum Products Act](#) ;
- (a.01) "alternative benchmark" means, with respect to a type, grade or component of heating fuel or motor fuel, a reported product price assessment other than the reported product price assessments set out in the Schedule;
- (a.02) "Argus" means Argus Americas Biofuels report or any other report published by Argus Media that the board considers relevant;
- (a.1) "benchmark" means, with respect to a type, grade or component of heating fuel or motor fuel,
 - (i) the reported product price assessment by Platts and by Bloombergs or OPIS in the case of propane, and as set out in the Schedule,
 - (ii) the reported product price assessment by Argus, and
 - (iii) notwithstanding subparagraphs (i) and (ii), with respect to mid-grade and premium unleaded gasoline, the product price assessment for Unl 87;
- (b) "Bloombergs" means Bloombergs Oil Buyers Guide;
- (b.1) "carbon price adjustment" means a monetary adjustment established by the board in accordance with [section 13.1](#);
- (b.2) "low-carbon-intensity fuel" means low-carbon-intensity fuel as defined in the [Clean Fuel Regulations](#) (Canada);
- (c) "maximum retail price" means the petroleum product base price for a type of heating fuel or motor fuel, which constitutes the maximum price chargeable by a retailer to a consumer for that type of heating fuel or motor fuel;
- (d) "maximum wholesale price" means the petroleum product base price for a type of heating fuel or motor fuel, which constitutes the maximum price chargeable by a wholesaler to a retailer for that type of heating fuel or motor fuel;
- (d.1) "OPIS" means Oil Price Information Service price report;
- (e) "Platts" means Platts Oilgram Price Report;
- (f) "point of sale" means
 - (i) with respect to the sale of heating fuel or motor fuel by a wholesaler to a retailer, the location of the outlet from which the retailer intends to sell the heating fuel or motor fuel to consumers, or
 - (ii) with respect to the sale of heating fuel or motor fuel by a retailer to a consumer, the location at which the heating fuel or motor fuel is delivered to the consumer; and
- (g) "primary supplier" means a primary supplier as defined in the [Clean Fuel Regulations](#) (Canada).

Information to be provided

3. (1) Within 30 days after these regulations come into force, every wholesaler and retailer shall provide the board, in writing, with

- (a) the name of an individual and the individual's position title, designated by the wholesaler or retailer, to receive all notices, decisions, requests, correspondence and other communications from the board on behalf of that wholesaler or retailer; and
- (b) contact information for the wholesaler or retailer, including where possible
 - (i) a mailing address;
 - (ii) a telephone number,
 - (iii) a facsimile number, and
 - (iv) an electronic mail address.

(2) A person who becomes a wholesaler or retailer after these regulations come into force shall provide the board with the information set out in subsection (1) within 30 days of becoming a wholesaler or retailer.

(3) Where the Act or these regulations require the board to inform a wholesaler or retailer of a decision taken by the board, the board shall inform the wholesaler or retailer in the manner that the board considers appropriate after considering the information provided under subsection (1) or (2).

(4) Where a decision of the board affects all retailers or wholesalers or a number of either, the board may inform them of the decision by using a general means including a newspaper in circulation in the province.

(5) A wholesaler or retailer shall inform the board of any changes to the contact information submitted under subsection (1) or (2).

79/01 s3; [2004 c28 s9](#); 34/22 s1

Periodic reports

4. (1) The board may require wholesalers to submit written reports on a quarterly basis containing:

- (a) the name, location, zone or sub-zone, and type of retailer to whom motor fuels or heating fuels are sold or held for reselling to consumers;
- (b) the volumes of each product sold to each retailer by outlet totalled in litres on a monthly basis;
- (c) the average monthly price of each product identified in paragraph (b) including taxes and excluding taxes;
- (d) the amounts of each type of taxes identified in the totals referred to in paragraph (c); and
- (e) any information which the board determines is necessary in relation to the administration of the Act and these regulations.

(2) The board may require retailers to submit written reports for retail motor fuel outlets on a quarterly basis containing

- (a) the name, location, zone or sub-zone, and type of each retail outlet at which petroleum fuels are sold to consumers;
 - (b) the type and capacity in litres of each storage tank at each outlet by type and grade of product;
 - (c) the volumes of each type or grade of fuel sold totalled in litres on a monthly basis;
 - (d) the volume of each product sold through self-serve pumps and through full service pumps totalled in litres on a monthly basis;
 - (e) the daily pump prices for each type, grade and service mode for each product for the period; and
 - (f) any information which the board determines is necessary in relation to the administration of the Act and these regulations.
- (3) The board may require retailers to submit written reports for retail heating fuels on a quarterly basis as follows:
- (a) the name, location, and operating zone or sub-zone areas of each retailer of heating fuels;
 - (b) a description of the method by which the retailer purchases products from a wholesaler;
 - (c) the name of each wholesaler and volumes purchased from each by product type and volume in litres on a monthly basis;
 - (d) the capacity in litres of each tank-truck the heating fuel retailer uses to deliver products to consumers;
 - (e) the capacity in litres of each storage tank if the retailer draws product from a designated bulk storage plant;
 - (f) the volumes of each type or grade of fuel sold totalled in litres on a monthly basis;
 - (g) the delivered tank wagon price for each type and grade of heating fuel sold to consumers for the period; and
 - (h) any information which the board determines is necessary in relation to the administration of the Act and these regulations.
- (4) A retailer shall record the starting price for the period and then indicate the changes and effective dates, if any, of price adjustments during the reporting period.
- (5) The board shall keep confidential all information supplied to the board by wholesalers and retailers of heating fuel and motor fuel under this section except where the release of the information is approved by the wholesaler or retailer who provided it.
- (6) A request by the board under this section shall be made in writing and shall indicate the date on which a response to the request must be submitted to the board.

79/01 s4; [2004 c28 s9](#); 1/10 s2

Release of information

4.1 (1) The board shall publish on its website the maximum retail and wholesale prices for fuel, together with the costs per litre for the components of the maximum retail and wholesale prices for each fuel type, including

- (a) the benchmark price;
- (b) the total allowed retail mark-up;
- (c) the total allowed wholesale mark-up;
- (d) the total allowed service costs;
- (e) the taxation components;
- (f) the price differential for each zone, or within a zone, as applicable; and
- (g) the carbon price adjustment.

(2) For the purposes of paragraph (1)(b), “total allowed retail mark-up” means the difference between the total allowed mark-up referenced in [section 10](#) and the total wholesale markup referenced in [section 11](#).

(3) The board shall post the information respecting maximum retail and wholesale prices referenced in subsection (1) on its website on the day the prices come into effect.

(4) The board shall publish on its website the procedure established under subsection 7(1) of the Act for determining adjustments to the petroleum product base wholesale and retail price.

34/22 s2; 48/23 s2

Zone criteria

5. (1) The board for the purpose of dividing the province into zones shall consider

- (a) the prices that have been charged to retailers and consumers for heating fuel and motor fuel throughout the province, for the period of time that the board considers appropriate;
 - (b) those factors and costs that may explain the differences, if any, between the prices that have been charged to retailers and consumers for heating fuel and motor fuel throughout the province for the period of time considered appropriate by the board under paragraph (a), including,
 - (i) transportation costs,
 - (ii) volume of sales,
 - (iii) storage costs,
 - (iv) distributions costs, and
 - (v) inventory turnover rates; and
 - (c) the other considerations that the board considers relevant.
- (2) The board shall inform wholesalers and retailers as to the zones it has established.

79/01 s5; [2004 c28 s9](#)

Point of sale

6. (1) A wholesaler shall not charge a price to a retailer for heating fuel or motor fuel greater than the maximum wholesale price for the zone within which the point of sale is located.

(2) A retailer shall not charge a price to a consumer for heating fuel or motor fuel greater than the maximum retail price for the zone within which the point of sale is located.

(3) Notwithstanding subsections (1) and (2), the board may, in accordance with the Act and these regulations, set a different maximum wholesale price or retail price that a wholesaler or retailer may charge for heating fuel or motor fuel within a zone.

79/01 s6; [2004 c28 s9](#)

Components of the maximum price

7. (1) For each type of heating fuel and motor fuel, the maximum retail price shall be the sum of

- (a) the benchmark price;
- (b) the total allowed mark-up;
- (c) applicable taxation;
- (d) any allowed service costs; and
- (e) the carbon price adjustment.

(2) For each type of heating fuel and motor fuel, the maximum wholesale price shall be the sum of

- (a) the benchmark price;
- (b) the allowed wholesale mark-up;
- (c) applicable taxation; and
- (d) the carbon price adjustment.

(3) For the purpose of establishing the maximum wholesale price or maximum retail price of heating fuel or motor fuel, the board may hold a hearing where it considers one is desirable.

79/01 s7; [2004 c28 s9](#); 48/23 s3

Confidentiality

8. Unless authorized by the board, a wholesaler or retailer shall not disclose to any other person a price established by the board before the date on which the price comes into force.

79/01 s8; [2004 c28 s9](#)

Initial setting of the benchmark price

9. (1) For each type of motor fuel and heating fuel, the benchmark price shall be the average of the average of the daily high and low product prices for the benchmark, as reported in Platts, Bloombergs or Argus during the 4 week period immediately preceding the date on which the maximum wholesale price or maximum retail price is to take effect.

(1.1) The benchmark price for a motor fuel or heating fuel that is a combination of liquid

products distilled from petroleum shall be the sum of the benchmark price calculated under subsection (1) for each product multiplied by the percentage by which each product is a component of the motor fuel or heating fuel, which percentage shall be determined by the board.

(2) The board shall use daily noon exchange rates published by the Bank of Canada for the purpose of converting United States currency to Canadian currency.

(3) The benchmark price determined by the board shall be expressed in Canadian cents per litre or other unit of measurement appropriate to the petroleum product.

79/01 s9; [2004 c28 s9](#); 1/10 s3; 48/23 s4

Initial setting of the total allowed mark-up

10. (1) For each type of motor fuel and heating fuel, the board shall, for the purpose of establishing the total allowed mark-up, consider

- (a) the historical margin between product prices for the benchmark and the prices that have been charged to consumers within the province or zone for the type of heating fuel or motor fuel, excluding applicable taxation, for the period of time that the board considers appropriate;
- (b) whether the historical margins identified as a result of paragraph (a) are reasonable, taking into account
 - (i) transportation costs,
 - (ii) volume of sales,
 - (iii) storage costs,
 - (iv) distributions costs, and
 - (v) inventory turnover rates; and
- (c) that the maximum retail price only sets a maximum price for the sale of motor fuel and heating fuel by retailers to consumers and should, to the extent possible, allow competition between retailers within a zone or the province; and
- (d) the other considerations that the board considers relevant.

(2) The board may establish a different maximum retail price that a retailer may charge for a type of heating fuel or motor fuel within a zone by establishing a different total allowed mark-up for that retailer by taking into consideration

- (a) whether a different total allowed mark-up would be fair and reasonable taking into account the
 - (i) transportation costs,
 - (ii) volume of sales,
 - (iii) storage costs,
 - (iv) distributions costs, and
 - (v) inventory turnover rates

of the retailer in comparison to other retailers within the zone; and

(b) the other considerations that the board considers relevant.

(3) The total allowed mark-up shall be expressed in Canadian cents per litre or other unit of measurement appropriate to the petroleum product.

79/01 s10; [2004 c28 s9](#)

Initial setting of the allowed wholesale mark-up

11. (1) After the total allowed mark-up for a type of heating fuel or motor fuel has been established, the board shall establish the allowed wholesale mark-up for that type of heating fuel or motor fuel by taking into consideration,

- (a) the historical margin between the benchmark price and the prices that have been charged to retailers within the province or a zone for the type of heating fuel or motor fuel, excluding applicable taxes, for the period the board considers appropriate;
- (b) whether the historical margins identified as a result of paragraph (a) are reasonable, taking into account
 - (i) transportation costs,
 - (ii) volume of sales,
 - (iii) storage costs,
 - (iv) distribution costs, and
 - (v) inventory turnover rates; and
- (c) that the maximum wholesale price only sets a maximum price for the sale of motor fuel and heating fuel by wholesalers to retailers and should, to the extent possible, allow competition between wholesalers within a zone or the province.

(2) The board may establish a different maximum wholesale price that a wholesaler may charge for a type of heating fuel or motor fuel within a zone by establishing a different allowed wholesale mark-up taking into consideration

- (a) whether a different allowed wholesale mark-up would be fair and reasonable taking into account the
 - (i) transportation costs,
 - (ii) volume of sales,
 - (iii) storage costs,
 - (iv) distributions costs, and
 - (v) inventory turnover rates

of the wholesaler in comparison to other wholesalers within the zone; and

(b) the other considerations that the board considers relevant.

(3) The allowed wholesale mark-up shall be expressed in Canadian cents per litre or other unit of measurement appropriate to the petroleum product.

Applicable taxation

12. The applicable taxation shall be the amount of taxation payable by a wholesaler or retailer in respect of a type of heating fuel or motor fuel and shall be expressed in Canadian cents per litre or other unit of measurement appropriate to the petroleum product.

Allowed service costs

13. (1) The board may establish an allowed service cost in respect of a particular service offered by retailers to consumers in relation to a type of heating fuel or motor fuel that is not reflected in the benchmark price, total allowed mark-up or applicable taxation.

(2) When establishing an allowed service cost, the board shall consider the costs to the retailer to provide the service to consumers.

(3) The maximum retail price for a type of heating fuel or motor fuel shall only include the allowed service cost if the particular service has been provided or will be provided to the consumer by the retailer.

(4) The allowed service cost shall be expressed in Canadian cents per litre or other unit of measurement appropriate to the petroleum product.

Carbon price adjustment

13.1 (1) The board shall establish a carbon price adjustment that mitigates the costs incurred for wholesalers and retailers as a result of a primary supplier's requirement to comply with the [Clean Fuel Regulations](#) (Canada).

(2) When establishing a carbon price adjustment, the board may consider the following

- (a) written submissions from primary suppliers, wholesalers and retailers regarding the financial and administrative burdens associated with the application of the [Clean Fuel Regulations](#) (Canada);
- (b) the cost of low-carbon-intensity fuel;
- (c) the costs incurred by wholesalers and retailers as a result of a primary supplier's requirement to comply with the [Clean Fuel Regulations](#) (Canada); and
- (d) any other information the board considers relevant in relation to the application of the [Clean Fuel Regulations](#) (Canada).

(3) The carbon price adjustment shall be expressed in Canadian cents per litre or other unit of measurement appropriate to the petroleum product.

Periodic adjustment timing

14. (1) The board shall adjust the benchmark price for each type of motor fuel and heating fuel on a monthly basis, but where circumstances warrant, the board may adjust prices at other times.

(2) For each type of motor fuel and heating fuel, the benchmark price shall be adjusted to be the average of the average of the daily high and low product prices for the benchmark, as reported in Platts, Bloombergs or Argus during the period immediately following:

- (a) the date on which the benchmark price was first established by the board; or
- (b) where the benchmark price has been previously adjusted, the date on which the benchmark price was last adjusted.

(2.1) Notwithstanding subsection (2), the benchmark price for mid-grade and premium unleaded gasoline shall be adjusted to be the sum of the benchmark price for Unl 87 adjusted in accordance with this section plus

- (a) 3 cents per litre for mid-grade unleaded gasoline; and
- (b) 6 cents per litre for premium unleaded gasoline.

(2.2) Notwithstanding subsection (2), the benchmark price for a motor fuel or heating fuel that is a combination of liquid products distilled from petroleum shall be adjusted to be the sum of the benchmark price adjusted in accordance with this section for each product multiplied by the percentage by which each product is a component of the motor fuel or heating fuel, which percentage shall be determined by the board.

(2.3) Notwithstanding subsection (2), on or after November 29, 2019 the benchmark price for propane shall be adjusted to be the weekly average price for propane as reported in OPIS during the period immediately following the date on which the benchmark price was last adjusted.

(2.4) Notwithstanding the other provisions of this section, where a benchmark set out in the Schedule is eliminated, renamed, or changed significantly in its calculation method or content as determined by the board, the board may use an alternative benchmark for up to one year to adjust the benchmark price for the type of motor fuel or heating fuel.

(2.5) Where the board adjusts a benchmark price using an alternative benchmark in accordance with subsection (2.4) the board shall notify the minister within 2 business days of the first day on which the benchmark price was adjusted using the alternative benchmark.

(2.6) Notwithstanding the other provisions of this section, where the board determines that an alternate pricing methodology would result in a benchmark price for a type of motor fuel or heating fuel which is more reasonably reflective of the cost of the fuel for or within a zone in Labrador in which there is an approved price freeze, the board may establish an alternative pricing methodology, including a different benchmark price adjustment schedule for that type of motor fuel or heating fuel.

(3) The board may, at any time, adjust the total allowed mark-up or allowed wholesale mark-up for a type of heating fuel or motor fuel taking into consideration

- (a) whether an adjustment would be reasonable given changes, if any, to
 - (i) transportation costs,
 - (ii) volume of sales,
 - (iii) storage costs,
 - (iv) distributions costs, and
 - (v) inventory turnover rates

since the total allowed mark-up or allowed wholesale mark-up was last established by the

board; and

(b) the other considerations that the board considers relevant.

(4) The board may, at any time, adjust the allowed service cost for a type of motor fuel or heating fuel, after considering whether an adjustment would be reasonable given changes to the costs to the retailer to provide the service to consumers since the allowed service cost was last established by the board.

(4.1) The board may, at any time, adjust the carbon price adjustment, after considering whether an adjustment would be reasonable given changes to the costs to wholesalers and retailers since the carbon price adjustment was last established by the board.

(5) When making an adjustment under this section, the board may compel relevant information from a wholesaler or retailer, in a form prescribed by the board, and may hold a hearing where it considers one is desirable.

(6) Where the board adjusts the benchmark price, the total allowed mark-up, the allowed wholesale mark-up, or the allowed service cost it shall inform wholesalers and retailers of the adjustment and the date on which the new maximum wholesale price or maximum retail price comes into effect.

(7) Where a decision of the board affects all retailers or wholesalers or a number of either, the board may inform them of the decision by using a general means including a newspaper in circulation in the province.

79/01 s14; [2004 c28 s9](#); 1/10 s4; 82/19 s2; 48/23 s6

Application for change in maximum price

15. (1) Where a wholesaler or retailer applies for a change in price under subsection 8(1) of the Act, the board may set a new maximum wholesale price or maximum retail price that the applicant may charge for a type of heating fuel or motor fuel within a zone by adjusting

(a) the total allowed mark-up or wholesale mark-up for the applicant;

(b) the allowed service cost; or

(c) both the total allowed mark-up and the allowed service cost.

(2) The board may adjust the total allowed mark-up or wholesale mark-up for the applicant, taking into consideration

(a) whether a change would be reasonable as a result of a change to

(i) transportation costs,

(ii) volume of sales,

(iii) storage costs,

(iv) distributions costs, and

(v) inventory turnover rates

since the total allowed mark-up or allowed wholesale mark-up was last established by the board; and

(b) the other considerations that the board considers relevant.

(3) The board may adjust the allowed service cost for an applicant, after considering whether an adjustment would be reasonable as a result of a change to the costs to the retailer to provide the service to consumers since the allowed service cost was last established by the board.

79/01 s15; [2004 c28 s9](#)

Public hearing

16. Where the minister directs the board to hold a hearing under subsection 8.1(5) of the Act, the minister may direct that the hearing be a public hearing.

34/22 s3

Schedule

Platts New York Barge No. 2

Platts New York Barge ULSD

Platts New York Barge ULSKero

Platts New York Barge Jet

Platts New York Cargo Unl 87

Platts New York Cargo LSD

Platts New York Cargo LS Jet

Bloomberg Oil Buyers Guide US Propane Contract Postings Sarnia

Oil Price Information Service price report

28/15 s1; 82/19 s3