

EXPLANATORY NOTES

SUBJECT: *Renewable Energy Standard Regulations*

DATE: **December 13, 2006**

	Proposed	Analysis
1	<p>Citation 1 These regulations may be cited as the <i>Renewable Energy Standard Regulations</i>.</p>	<p>These regulations will provide the implementation detail respecting Sections 4 and 5 of the <i>Electricity Act</i>, S.N.S. 2004, c. 25.</p>
2	<p>Interpretation 2 In these regulations,</p> <p>(a) “Administrator” means a person designated by the Minister under Section 4 of these regulations and includes an acting administrator;</p>	<p>Defines the meaning of the word “Administrator” in the proposed <i>Renewable Energy Standard Regulations</i>.</p> <p>Duties are outlined in Section 4.</p>
	<p>(b) “Act” means the <i>Electricity Act</i>;</p>	<p>Defines the meaning of the word “Act” to be the <i>Electricity Act</i>, S.N.S. 2004, c. 25.</p>
	<p>(c) “Board” means the Nova Scotia Utility and Review Board;</p>	<p>Defines the meaning of the word “Board” with respect to the <i>Electricity Act</i>, S.N.S. 2004, c. 25.</p>
	<p>(d) “certified” in reference to a renewable energy generation facility, means certified by the Board in accordance with Section 7;</p>	<p>Defines the meaning of the word “certified” by the Board under Section 6 of the Regulations.</p>
	<p>(e) “Department” means the Department of Energy;</p>	<p>Defines the meaning of the word “Department”.</p>
	<p>(f) “designated representative” means the person authorized to act as the representative of a renewable energy generator and whose acts and omissions are binding on it;</p>	<p>Defines the meaning of the words “designated representative” with respect to the regulations.</p> <p>The representatives can apply for certifications under Section 6.</p>
	<p>(g) “independent power producer” means a generator, other than an electric utility, that owns or operates an electricity generation facility and sells electricity</p> <p>(i) in the Province to electric utilities for retail sales to the utilities’ customers, or</p> <p>(ii) for export to electric utilities outside of the Province;</p>	<p>Defines the meaning of the words “independent power producer (IPP)” with respect to the regulations.</p>

	Proposed	Analysis
	<p>(h) “load serving entity” means any one of the following:</p> <p>(i) NSPI,</p> <p>(ii) a municipal electric utility that purchases any or all of its electricity supply from a supplier other than NSPI,</p> <p>(iii) an independent power producer who exports electricity;</p>	<p>Defines the meaning of the words “load serving entity (LSE)” with respect to the regulations.</p>
	<p>(i) “Minister” means the Minister of Energy;</p>	<p>Defines the meaning of the word “Minister” with respect to the regulations.</p>
	<p>(j) “municipal electric utility” means the electrical utility for any one of the following:</p> <p>(i) the Town of Antigonish,</p> <p>(ii) the Town of Berwick,</p> <p>(iii) the Town of Canso,</p> <p>(iv) the Town of Lunenburg,</p> <p>(v) the Town of Mahone Bay,</p> <p>(vi) The Electric Light Commissioners for Riverport, in the County of Lunenburg;</p>	<p>The initial market opening in Nova Scotia will include these 6 municipal electric utilities.</p>
	<p>(k) “NSPI” means Nova Scotia Power Incorporated;</p>	
	<p>(l) “renewable energy generator” means a person who owns or operates a renewable energy generation facility;</p>	<p>Defines the meaning of the words “renewable energy generator” with respect to the regulations.</p>
	<p>(m) “renewable energy generation facility” means a facility that generates electricity from renewable low impact electricity and is certified;</p>	<p>Defines the meaning of the words “renewable energy generation facility” with respect to the regulations.</p> <p>Details are found in Section 7.</p>
	<p>(n) “renewable energy standard” means a target share or amount of renewable low impact electricity to be supplied by a load serving entity;</p>	<p>Defines the meaning of the words “renewable energy standard” with respect to the regulations.</p> <p>The standard is set out in Sections 5 and 6.</p>

	Proposed	Analysis
	<p>(o) “renewable low impact electricity” means electric energy produced from any source of renewable energy that is able to be replenished by natural processes within a reasonable length of time, and within 80 years at the latest, and includes, but is not limited to, all of the following:</p> <ul style="list-style-type: none"> (i) solar energy, (ii) wind energy, (iii) biomass, (iv) run-of-the-river hydroelectric energy, (v) ocean-powered energy, (vi) tidal energy, (vii) wave energy, (viii) landfill gas, (ix) liquid biofuel and other biogas energy; 	<p>Defines the meaning of the words “renewable low impact electricity” with respect to the regulations and lists specific types of energy sources that would be deemed to be included in the definition of “renewable low impact electricity”.</p> <p>Electricity Marketplace Governance Committee (EMGC) Recommendations 37 and 38.</p>
	<p>(p) “run-of-the-river hydroelectric electricity” means electricity generated from flowing water that includes the use of a dam structure that causes minimum environmental effect on the river course.</p>	<p>Defines the meaning of the words “run of the river hydroelectric” with respect to the regulations.</p>
3	<p>Minister’s powers</p> <p>3 The Minister may direct the Administrator or the Board to inquire into and report on any matter under the Act or these regulations that the Minister considers necessary or advisable to carry out effectively the intent and purpose of the Act.</p>	<p>Defines and clarifies the powers of the Minister regarding specific directives that may be issued to the Administrator or the Board with respect to the <i>Electricity Act</i>, S.N.S. 2004, c. 25.</p>

	Proposed	Analysis
4	<p>Administrator</p> <p>4</p> <p>(1) The Minister must designate an Administrator to administer these regulations.</p> <p>(2) The Administrator is responsible for preparing</p> <p style="padding-left: 20px;">(a) interpretations of these regulations; and</p> <p style="padding-left: 20px;">(b) policies, standards and guidelines under these regulations.</p> <p>(3) The Board must be sent final copies of documents prepared under subsection (2) and must comply with them in fulfilling its duties under the Act or these regulations.</p>	<p>Clarifies the manner in which the “Administrator” of the proposed regulations will be appointed.</p> <p>Clarifies the role/responsibilities of the Administrator.</p> <p>The Board is required to consider policies, standards and guidelines prepared by the Department/Administrator.</p>
5	<p>Renewable energy standard 2010</p> <p>5</p> <p>(1) In each of the calendar years 2010, 2011, and 2012, each load serving entity must supply its customers with renewable low impact electricity in an amount equal to or greater than 5% of its total sales for that year.</p> <p>(2) Each load serving entity must meet the renewable energy standard in subsection (1) by supplying renewable low impact electricity produced by a renewable energy generation facility.</p> <p>(3) Subject to subsection (4), NSPI must purchase from independent power producers enough renewable low impact electricity to meet the renewable energy standard in subsection (1) for both its own retail sales and for sales to the 6 municipal electric utilities.</p> <p>(4) To meet the renewable energy standard in subsection (1), a municipal electric utility that purchases any of its electricity supply from a person other than NSPI must ensure that a minimum of 5% of that non-NSPI electricity supply is supplied by a generator of renewable low impact electricity.</p>	<p>Standard prescribed for 2010 and each year thereafter until 2013.</p> <p>Consistent with Recommendations 40 and 43 of the Electricity Marketplace Governance Committee (EMGC) Report dated 2003.</p> <p>Details how the standard prescribed in 5(1) is to be met.</p> <p>Commitments of NSPI. Must buy this renewable low impact electricity from independent power producers (not its own facilities).</p> <p>If a municipal electric utility buys electricity from persons other than NSPI, the renewable energy standard is to be met.</p>

	Proposed	Analysis
6	<p>Renewable energy standard 2013</p> <p>6</p> <p>(1) Each year beginning with the calendar year 2013, each load serving entity must supply its customers with renewable low impact electricity in an amount equal to or greater than 10% of its total sales for that year.</p> <p>(2) Each load serving entity must meet the renewable energy standard in subsection (1) by supplying renewable low impact electricity produced by a renewable energy generation facility.</p> <p>(3) Subject to subsection (4), NSPI must meet the renewable energy standard in subsection (1) as follows:</p> <p>(a) by continuing to meet the 2010 standard by complying with subsection 5(3); and</p> <p>(b) by acquiring the additional renewable low impact electricity to meet the standard in subsection (1) from independent power producers or from its own renewable energy generation facilities.</p> <p>(4) To meet the renewable energy standard in subsection (1), a municipal electric utility that purchases any of its electricity supply from a person other than NSPI must ensure that a minimum of 10% of that non-NSPI electricity supply is supplied by a generator of renewable low impact electricity.</p>	<p>Standard prescribed for 2013 and each year thereafter.</p> <p><u>Discussion on this standard</u></p> <p>(a) timeline;</p> <p>(b) where the renewable energy is to come from;</p> <p>(c) results of discussions/negotiations with the federal government.</p> <p>NSPI must still meet the 2010 (5%) standard from independent power producers. The 2013 standard (extra 5%) can come from its own facilities.</p> <p>Municipal utilities obligation when they buy from someone other than NSPI.</p>

	Proposed	Analysis
7	<p>Renewable energy generation facility certification</p> <p>7 (1) A renewable energy generator or its designated representative may apply to the Administrator for certification of a facility as a renewable energy generation facility.</p> <p>(2) The Administrator must certify a facility that supplies a load serving entity with electricity to be a renewable energy generation facility if all of the following conditions are met:</p> <p>(a) the facility is located in the Province, which includes marine waters in the Province;</p> <p>(b) the facility is owned or operated by an independent power producer or, for the purposes of subsection 6(3), is owned or operated by NSPI;</p> <p>(c) the facility produces electricity from renewable low impact electricity;</p> <p>(d) the facility was constructed</p> <p style="padding-left: 40px;">(i) on or after December 31, 2001, or</p> <p style="padding-left: 40px;">(ii) before December 31, 2001, and has</p> <p style="padding-left: 80px;">(A) increased its output since December 31, 2001 by expanding or through technology upgrades, or</p> <p style="padding-left: 80px;">(B) undergone a major rebuild in lieu of retirement since December 31, 2001;</p> <p>(e) the facility has obtained all approvals and complies with all applicable laws and regulations.</p>	<p>Application for certification. These will be processed by the Administrator.</p> <p>Details what facilities will be certified by the Administrator as a “renewable energy generation facility”.</p> <p>EMGC Recommendations 38 and 50. Location requirement.</p> <p>Ownership requirement.</p> <p>Production requirement.</p> <p>Construction requirement:</p> <p>(i) new facilities.</p> <p>(ii) existing facilities before 2001 which have been expanded/upgraded or rebuilt.</p>

	Proposed	Analysis
	<p>(3) For a facility described in paragraph (2)(ii)(A), only the incremental capacity resulting from the increase in output since December 31, 2001, is counted toward the renewable energy standard.</p> <p>(4) The Administrator may prescribe the terms and conditions of a certification issued under subsection (1).</p>	<p>Clarifies that only incremental capacity will be counted.</p> <p>Clarifies the mandate of the Board regarding the certification of renewable energy generators.</p>
	<p>(5) A certification issued by the Administrator must not be transferred without the written approval of the Administrator.</p>	<p>Clarifies the process regarding the issue for certification transfers.</p>
	<p>(6) The Administrator must monitor each renewable energy generation facility to ensure all of the following:</p> <ul style="list-style-type: none"> (i) that the facility continues to meet all conditions prescribed in subsection (2), (ii) that the facility's sales levels of electricity output do not exceed production supply levels. 	<p>Specifies the oversight responsibilities assigned to the Administrator related specifically to certification and compliance monitoring of renewable energy generators.</p> <p>EMGC Recommendation 39.</p>

	Proposed	Analysis
8	<p>Administrator's powers</p> <p>8 The Administrator has all the power and authority necessary to implement, administer and enforce these regulations, including the power to issue directions or orders, and may do all of the following:</p> <ul style="list-style-type: none"> (a) establish a process for certifying and monitoring of renewable energy generation facilities and monitoring renewable energy generators; (b) establish accounts and records for a renewable energy generator or its designated representative; (c) establish registries of renewable energy generation facilities and information that the Administrator determines to be necessary; (d) determine for each renewable energy generation facility the amount of renewable low impact electricity generated at December 31, 2001, and the load serving entity's total electricity sales in a calendar year; (e) establish criteria for how the electricity output of the facility is physically metered and how the accuracy of the revenue class, industry standard metering is to be tested; (f) audit certified renewable energy generation facilities, as necessary, to verify the accuracy of metered production data; (g) suspend or revoke a certification issued under Section 7; (h) do anything necessary to ensure that the requirements of these regulations are met. 	<p>Clarification of the powers/role of the Administrator regarding the administration of the renewable energy standards.</p> <p>EMGC Recommendation 39.</p> <p>Metering requirements.</p> <p>Audits.</p>
9	<p>Reporting requirements</p> <p>9</p> <ul style="list-style-type: none"> (1) Each load serving entity must report to the Board annually, or at other intervals determined by the Board, to outline its progress in meeting the requirements of these regulations. (2) The Board may specify the form and content of the progress report. (3) The Board may issue directions or orders to ensure that the requirements of this Section are met. 	<p>Specifies the reporting requirements for LSEs.</p> <p>EMGC Recommendation 44.</p> <p>Clarifies the Board's mandate.</p>

	Proposed	Analysis
10	<p>Review by Board</p> <p>10 On application by any person, the Board may review an action or decision of the Administrator under Section 7 or 8.</p>	Board's power to review.
11	<p>Appeals to the Board</p> <p>11 (1) The Board may hear appeals from actions or decisions of the Administrator under Section 7.</p> <p>(2) A person who is subject to an order or directions made by the Administrator may appeal the order or direction to the Board.</p>	Appeals to Board.
12	<p>Board powers</p> <p>12 The powers of the Board respecting a hearing or an appeal under the <i>Utility and Review Board Act</i> and the <i>Public Utilities Act</i> and regulations made under those Acts apply to a review or appeal under these regulations.</p>	Powers of the Board.
13	<p>Standard shortfall</p> <p>11 A load serving entity who fails by December 31 to meet a renewable energy standard prescribed in Section 5 or 6 must, within 1 year from that date, make up the shortfall of the renewable low impact electricity by supplying twice the amount of the deficiency.</p>	Penalty when the standard is not met. Must supply twice the deficiency in the next year.
14	<p>Penalties and enforcement</p> <p>12 A person is liable to a daily penalty of no more than \$500 000, if they do any of the following:</p> <p>(a) fail to comply with these regulations;</p> <p>(b) fail, neglect, omit or otherwise refuse to do any act or thing required under these regulations;</p> <p>(c) fail, neglect, omit or otherwise refuse to comply with a direction or order of the Administrator or the Board made under these regulations.</p>	<p>Clarifies the regulatory compliance enforcement and penalty provisions with respect to the regulations made pursuant to the <i>Electricity Act</i>, S.N.S. 2004, c. 25.</p> <p>Penalty is a daily penalty (continuing offence).</p>