

1 **Volume 3, Section 1 – McShane, Cost of Capital**  
2

3 **Q. (page 13, lines 355-357) Please discuss:**  
4

- 5 **a. The comparative cost of home heating oil and electric space and water**  
6 **heating in NP’s franchise area (i) currently and (ii) as expected over the next**  
7 **5 years; and**  
8 **b. The nature and effect of the regulations governing the use of home heating oil**  
9 **on its use within NP’s franchise area and how, if at all, these regulation and**  
10 **their effects are expected to change over the next 5 years.**  
11

12 A. (a) A comparative cost of home space and water heating using oil and electricity in  
13 Newfoundland Power’s franchise area, assuming current and proposed rates, is  
14 contained in the response to CA-NP-003. The detailed information required to  
15 complete a cost comparison over the next five years is not available. However, it  
16 is anticipated that electricity will continue to have a cost advantage over furnace  
17 oil.  
18

- 19 (b) The regulations (“Heating Oil Storage Tanking System Regulations, 2003”),  
20 which are provided in Attachment A, relate to more stringent requirements for the  
21 installation, maintenance, and life span of residential storage tanks. These  
22 regulations have prompted an increase in the number of new customers installing  
23 electric space heat, as well as reduced the number of customers converting to  
24 furnace oil and increased the number of furnace oil customers converting to  
25 electricity. Over the next five years, the referenced trend is expected to continue.

**Heating Oil Storage Tanking  
System Regulations  
2003**

NEWFOUNDLAND AND LABRADOR  
REGULATION 60/03

*Heating Oil Storage Tank System Regulations, 2003*  
under the  
*Environmental Protection Act*  
(O.C. 2003-227)

Amended by:

103/03  
40/07

NEWFOUNDLAND AND LABRADOR  
REGULATION 60/03

*Heating Oil Storage Tank System Regulations, 2003*  
under the  
*Environmental Protection Act*  
(O.C. 2003-227)

(Filed May 23, 2003 )

Under the authority of section 111 of the *Environmental Protection Act*, the Lieutenant Governor in Council makes the following regulations.

Dated at St. John's , May 21, 2003 .

Deborah E. Fry  
Clerk of the Executive Council

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## Short title

1. These regulations may be cited as the *Heating Oil Storage Tank System Regulations, 2003* .

[60/03 s1](#)

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## Definitions

2. In these regulations
  - (a) "aboveground" means on or above the adjacent surface and includes basements or other indoor locations;
  - (b) "Act" means the *Environmental Protection Act*;
  - (c) "administrator" means a person designated as the administrator by the minister under section 4.1;
  - (d) "alter" means to
    - (i) enlarge, reduce, upgrade, repair, replace, add, or remove any part of a system, or
    - (ii) change the configuration of the piping, filter, tank, physical protection or secondary containment of a system;
  - (e) "certificate of registration" means a document which confirms to an owner that the system information has been, or will be, registered with the department by a licensed inspector;
    - (e.1) "CSA -B139" means the Installation Code for Oil Burning Equipment of the Canadian Standards Association issued with the number CSA B139 as revised from time to time;
  - (f) "department" means the department presided over by the minister;
  - (g) "effective date" means
    - (i) for a new system, the date of installation, or
    - (ii) for an existing system, the date determined under subsection 6(3);
  - (h) "existing" means in use before the date these regulations come into force;
    - (i) "heating appliance" means an appliance intended for the supply of heat directly to a room or space or to rooms or spaces through a heat distribution system;
    - (j) "heating oil" means a hydrocarbon oil, as classified under CAN/CGSB-3.2-99, used as a fuel for a heating appliance and includes Type I, commonly known as stove oil and Type 2, commonly known as furnace oil, and any other oil which may be designated as heating oil by the administrator;
    - (k) "licensed inspector" means a person licensed under these regulations to inspect a system;
    - (l) "minister" means the minister appointed under the *Executive Council Act* to administer the Act;
    - (m) "owner" means the person having possessory rights to and care, control or management of the system and includes that person's agent;

(n) "system" means a heating oil storage tank system which includes one or more interconnected tanks and all associated vent, fill and withdrawal piping and filters, up to where the product lines connect to the heating appliance itself, installed in a fixed location and includes a temporary system, and, where appropriate, includes an existing system;

(o) "System Installation and Inspection Manual" means a manual approved by the department containing additional specific instructions as to the installation, operation, maintenance and inspection requirements for systems; and

(p) "underground" means below adjacent ground level.

[60/03 s2; 103/03 s1](#)

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## Application

3. These regulations apply to all systems with a capacity of 2500 litres or less that are or were connected to a heating appliance and are or were being used for the storage of heating oil and the delivery of heating oil to a connected heating appliance.

[60/03 s3](#)

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## Prohibition

4. (1) A person shall not operate or otherwise use a system for the storage of heating oil that does not comply with the technical requirements prescribed in section 15.

(2) This section shall come into force on April 1, 2009 .

[60/03 s4; 40/07 s1](#)

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## Administrator

4.1 The minister shall designate an administrator to carry out duties under these regulations.

[103/03 s2](#)

PART I  
NEW OR ALTERED SYSTEMS

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## New or altered systems

5. (1) Upon the coming into force of these regulations, the owner of a new or altered system shall register the system.

(2) A system shall comply with these regulations and the requirements of CSA -B139, the tank manufacturer's instructions and the System Installation and Inspection Manual.

(3) A person shall not own, use, operate or fill, or cause to be used, operated or filled a system which has been constructed, installed or altered after the coming into force of these regulations unless the system is registered in accordance with section 8.

(4) Notwithstanding subsection (2), a person may install or have his or her agent install a system for that person's own use notwithstanding that that person or agent is not trained as required under clause 3.4.2 of CSA -B139 to do that installation provided that an inspection is carried out as required under section 11 or 12.

[60/03 s5; 103/03 s3](#)

## PART II EXISTING SYSTEMS

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### Registration required

6. (1) On or before March 31, 2009 , the owner of an existing system shall register the system.
- (2) A system shall comply with these regulations and the requirements of CSA -B139, the tank manufacturer's instructions and the System Installation and Inspection Manual.
- (3) In determining the age of an existing system for the purpose of these regulations, the administrator shall consider
  - (a) proof of the date of installation; or
  - (b) where the date of installation of the tank cannot be determined, the date of manufacture of the tank,

but where the date of installation or manufacture of the tank cannot be determined under paragraph (a) or (b), the system shall be considered to be of unknown age and shall not be registered.

[60/03 s6; 40/07 s2](#)

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### Inspection required

7. (1) An existing system shall be inspected by a licensed inspector.
- (2) A licensed inspector shall give written notice to the owner of
  - (a) the results of the inspection of the system carried out under subsection (1); and
  - (b) a description of measures required to ensure compliance with subsection 6(2).
- (3) Any deficiencies discovered by the inspection shall be corrected by the owner.
- (4) Where a system has passed the inspection conducted in accordance with subsection (1) or has identified deficiencies corrected in accordance with subsection (3), a licensed inspector may issue a certificate of registration for and apply a registration label to that system in accordance with section 8.

[60/03 s7](#)

## PART III REGISTRATION AND INSPECTION OF SYSTEMS

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### Registration

8. (1) The administrator may issue or cause to be issued to an owner
  - (a) a certificate of registration, which shall include a registration number for each heating oil storage tank used in the system; and



(b) a registration label, or other means of identification which shall be affixed to the system in a manner acceptable to the administrator.

(2) The certificate of registration and the registration label may be provided to the owner by a licensed inspector.

[60/03 s8](#)

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## Continued compliance

9. (1) A registered system shall be inspected by a licensed inspector

(a) during or before the fifth year of operation of the system; and

(b) every five years after that

to ensure continued compliance with these regulations, the requirements of CSA -B139, the tank manufacturer's instructions and the System Installation and Inspection Manual.

(2) An inspection under section 7 satisfies the requirement of paragraph (1)(a).

(3) Deficiencies identified during an inspection conducted according to this section shall be corrected within 30 days or the registration of the system shall be revoked by the administrator.

[60/03 s9](#)

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## Registration records

10. (1) A licensed inspector shall maintain an electronic record, in the manner and form prescribed by the administrator, of all registration and inspection information of a system.

(2) The electronic record referred to in subsection (1) shall

(a) contain

(i) a description of the location of each system,

(ii) the system's registration information,

(iii) the licensed inspector's confirmation that the system complies with these regulations and the requirements of CSA -B139, the tank manufacturer's instructions and the System Installation and Inspection Manual, and

(iv) any other information that may be required by the administrator; and

(b) be made available to the administrator upon request.

[60/03 s10](#)

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## Construction and installation

11. (1) A system shall be constructed and installed in accordance with the requirements of these regulations and in accordance with the tank manufacturer's instruction, the System Installation and Inspection Manual and the requirements of CSA -B139, excluding the application of clause 3.4.2 of that code to a person or his or her agent who installs a system for that person's own use.

- (2) A licensed inspector shall inspect the installed system.
- (3) The licensed inspector shall give written notice to the owner of
  - (a) the results of the inspection of the system carried out under subsection (2); and
  - (b) a description of measures required to ensure compliance with subsection (1).
- (4) Any deficiencies discovered by the inspection shall be corrected by the owner.

(5) Where a system has passed the inspection conducted in accordance with subsection (2) or has had identified deficiencies corrected in accordance with subsection (4), a licensed inspector may issue a certificate of registration for, and apply a registration label to the system in accordance with section 8.

[60/03 s11; 103/03 s4](#)

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### **Alteration of system**

**12.** (1) An alteration to a system shall be in accordance with the requirements of these regulations and in accordance with the requirements of the tank manufacturer's instructions, the System Installation and Inspection Manual and the requirements of CSA -B139, excluding the application of clause 3.4.2 of that code to a person or his or her agent who alters a system for that person's own use.

- (2) Reasonable precautions shall be taken to prevent and contain spillage of heating oil during alterations.
- (3) A licensed inspector shall inspect the altered system.
- (4) A licensed inspector shall give written notice to the owner of
  - (a) the results of the inspection of the altered system carried out under subsection (3); and
  - (b) a description of measures required to ensure compliance with subsection (1).
- (5) Any deficiencies discovered by the inspection shall be corrected by the owner.

(6) Where a system has passed the inspection conducted in accordance with subsection (3) or has had identified deficiencies corrected in accordance with subsection (5), a licensed inspector may issue a certificate of registration for, and apply a registration label to, the system in accordance with section 8.

[60/03 s12; 103/03 s5](#)

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### **Delivery prohibited**

- 13.** (1) A person shall not deliver or otherwise place heating oil into a system
- (a) where there is reason to believe that the registration label
    - (i) has been altered,
    - (ii) does not belong to that system, or
    - (iii) has not been issued in accordance with these regulations; and
  - (b) on or after April 1, 2009

(i) which does not comply with these regulations and the requirements of CSA -B139, the tank manufacturer's instructions and the System Installation and Inspection Manual, and

(ii) where a valid registration label is not affixed to that system indicating that the registration of the system is current and has not expired; and

(c) that has not been constructed, installed, altered or registered in accordance with these regulations.

(2) A heating oil delivery person, or any other person who identifies registration label deficiencies under subsection (1) shall report those deficiencies immediately to the owner and to the administrator.

[60/03 s13](#); [103/03 s6](#); [40/07 s3](#)

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## Revocation of registration

**14.** (1) Where, in the opinion of the administrator, a new, altered or existing system does not comply with these regulations, the requirements of CSA -B139, the tank manufacturer's instructions and the System Installation and Inspection Manual, the administrator may

(a) revoke the certificate of registration; and

(b) direct the removal of the registration label.

(2) A revocation under subsection (1) is effective upon written notice being given to the owner by

(a) personal service; or

(b) registered or certified mail to the last known address of the owner.

(3) A notice mailed under subsection (2) shall be considered to be served on the owner

(a) on the date the owner actually receives the notice; or

(b) 5 days after the date of mailing

whichever is earlier.

[60/03 s14](#)

## PART IV TECHNICAL REQUIREMENTS

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## Technical requirements

**15.** (1) An aboveground mild steel tank shall only be used for the following maximum periods, which shall commence at the effective date determined under paragraph 2(g) or subsection 6(3), before being removed:

(a) for single wall tanks located outside

(i) end or top outlet, 14 gauge – 10 years,

(ii) end or top outlet, 12 gauge – 15 years,

(iii) bottom outlet, 14 gauge – 15 years, or

- (iv) bottom outlet, 12 gauge – 20 years; or
- (b) for single wall tanks located inside a structure or building which includes a foundation and protects the tank from the elements to the satisfaction of the administrator,
  - (i) end or top outlet, 14 gauge - 15 years,
  - (ii) end or top outlet, 12 gauge – 20 years,
  - (iii) bottom outlet, 14 gauge- 20 years, or
  - (iv) bottom outlet, 12 gauge – 25 years.
- (2) Notwithstanding subsection (1), an aboveground tank that is constructed with secondary containment that provides an interstice that is monitored and where the tank is located
  - (a) outside and the secondary containment precludes the ingress of precipitation; or
  - (b) inside a structure or building which includes a foundation and protects the tank from the elements to the satisfaction of the administrator,

that tank shall be used only for the maximum period set by the administrator.

(3) Where an aboveground tank is constructed of materials other than mild steel it shall be used only for the maximum period set by the administrator.

- (4) An underground heating oil storage system shall be
  - (a) constructed with secondary containment of both the tank and all piping or tubing that provides an interstice that is monitored; and
  - (b) installed and maintained in a manner so that the system may be readily removed if necessary according to subsection 18(5),

and that system shall be used only for the maximum period set by the administrator.

- (5) The maximum period referred to in subsections (2), (3) and (4) shall not exceed 50 years.
- (6) A system shall have physical protection for the tank and associated appurtenances including valves, gauges, piping or tubing.
- (7) A system may be subject to other requirements that the administrator may consider necessary.

[60/03 s15; 103/03 s7](#)

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## Removal required

- 16. (1) An existing system may remain in service if it has been registered.
- (2) An existing system which has not been registered shall be removed from service in accordance with subsection (3) on or before March 31, 2009 .
  - (3) The owner of a system which has been disconnected from its associated heating appliance shall, within 30 days
    - (a) empty the system of all liquid;
    - (b) where the system is

- (i) underground, the tank top shall be accessed and opened, any sludge and heating oil remaining in the tank shall be removed and the system shall then be dismantled, removed from the ground and disposed of, or
- (ii) aboveground, the tank shall be opened, any sludge and heating oil remaining in the tank shall be removed and the system shall then be dismantled and disposed of;
- (c) where underground piping is involved, the piping shall be removed from the ground, or emptied of heating oil and the ends shall be permanently sealed by capping; and
- (d) clean the affected area and restore the environment to the satisfaction of the department.

[60/03 s16; 40/07 s4](#)

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## Variance

17. (1) The administrator may, subject to the terms and conditions he or she considers appropriate, vary the requirements of section 15 where new technology, materials, systems, equipment, methods or procedures have become available which provide a level of environmental protection that meets or exceeds that provided by that section.

(2) The administrator may vary the time period for compliance with subsection 5(3), section 9 and paragraphs 13(1)(b), 16(3)(b), (c) and (d) and 18(5)(b) and (c) where, in the opinion of the administrator

- (a) due to geographic or other factors, a licensed inspector is not available; or
- (b) geographic or climatic factors make compliance within the prescribed time frame impossible.

(3) A request to dispose of a system in place shall only be considered if there are extenuating circumstances which would make the removal of the system difficult.

[60/03 s17; 103/03 s8](#)

## PART V LEAKAGE AND INSURANCE

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## Leakage

18. (1) An owner who has reason to believe that heating oil has leaked or is, or may be leaking from that owner's system or that water is intruding or has intruded into that owner's system shall immediately inform the department.

(2) Where any other person has reason to believe that heating oil has leaked or is, or may be leaking from a system, or that water is intruding or has intruded into a system, that person shall immediately attempt to inform the department and the owner.

(3) The owner of a system which has leaked or is or may be leaking or into which water is intruding or has intruded shall immediately inform that owner's heating oil delivery service company of the situation.

(4) A heating oil delivery service company who has been informed that heating oil has leaked or is or may be leaking or that water is or may be intruding into a system shall not deliver heating oil to that system until the system's integrity has been verified or until the system has been repaired or replaced as necessary to the satisfaction of the administrator.

- (5) Where leakage is occurring from or water is intruding into a system the owner shall
  - (a) immediately take those steps which are necessary to abate the discharge or intrusion and empty the system of all liquid;
  - (b) within a period of 10 days

- (i) where the system is underground, the tank top shall be accessed and opened, any sludge and heating oil remaining in the tank shall be removed and the system shall then be dismantled, removed from the ground and disposed of,
- (ii) where the system is aboveground, the tank shall be opened, any sludge and heating oil remaining in the tank shall be removed and the system shall then be dismantled and disposed of,
- (iii) where underground piping is involved, the piping shall be removed from the ground, or emptied of heating oil and the ends shall be permanently sealed by capping; and
- (c) within a period of 30 days, clean the affected area and restore the environment to the satisfaction of the department.

[60/03 s18](#)

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## **Insurance**

- 19. (1) As of January 1, 2003 all heating oil delivery service companies shall
  - (a) have and maintain third party environmental liability insurance of a minimum value of \$2,000,000 per occurrence to cover costs of a spill during delivery; or
  - (b) provide a written guarantee of financial responsibility acceptable to the administrator.
- (2) Where a company maintains insurance under paragraph (1)(a), it shall
  - (a) submit to the administrator a certificate of that insurance coverage by September 30, 2003 or within 30 days of acquiring that coverage, whichever is later;
    - (a.1) submit to the administrator a certificate of that insurance coverage within 30 days of renewing that coverage; and
    - (b) submit proof to the administrator that the required insurance contains a statement that insurance coverage may not be cancelled except upon 30 days prior written notice to the administrator.
  - (3) Where a company provides a written guarantee under paragraph (1)(b) it shall provide a minimum of 30 days notice in writing to the administrator of the company's intention to change, alter, cancel or otherwise cause to lapse or expire, the guarantee of financial responsibility required under that paragraph.
  - (4) Where a heating oil delivery service company fails to have or maintain the insurance coverage or guarantee of financial responsibility required in subsection (1), the company shall cease all deliveries of heating oil on January 1, 2003 or as of the day following the last day of insurance coverage or guarantee of financial responsibility.

[60/03 s19; 103/03 s9](#)

## **PART VI LICENSURE OF INSPECTORS**

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## **Licensure**

- 20. (1) A person shall not carry out an inspection for the purpose of registering or maintaining the registration of a system unless that person holds a valid inspector's licence.
- (2) An applicant for an inspector's licence shall
  - (a) complete and submit an application in the form and manner acceptable to the administrator;
  - (b) hold the certification required by the administrator; and

(c) complete, to the satisfaction of the administrator, additional training and examination programs required by the administrator.

(3) The administrator may issue a licence to an inspector and may attach those terms and conditions to that licence that he or she considers necessary.

(4) A licensed inspector shall

(a) comply with the terms and conditions of his or her licence;

(b) recommend only necessary repairs to, or replacement of, a system; and

(c) comply with these regulations.

(5) A licence issued under this section shall expire 12 months after the date of issue of the licence.

[60/03 s20; 103/03 s10](#)

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## **Investigation**

21. The administrator may conduct those investigations into the operations of a licensed inspector that he or she considers necessary.

[60/03 s21](#)

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## **Suspension or revocation of licensure**

22. (1) The administrator may suspend or revoke the licence of an inspector where he or she believes that the inspector has

(a) failed to comply with the terms and conditions of his or her licence;

(b) acted improperly in recommending unnecessary repairs or replacement of a system; or

(c) contravened these regulations.

(2) [Rep. by 103/03 s11]

(3) Notice of suspension or revocation of a licence under this section may be given

(a) by personal service; or

(b) by registered or certified mail to the last known address of the inspector shown in the records of the administrator.

(4) A notice mailed under subsection (3) shall be considered to have been served on the inspector

(a) on the date the inspector actually receives the notice; or

(b) 5 days after the date of mailing

whichever is earlier.

(5) [Rep. by 103/03 s11]

(6) An inspector whose licence has been suspended or revoked by the administrator under this section may, in writing, within 30 days of being served the notice of that suspension or revocation under subsection (4), appeal that decision to the minister and the minister may confirm, vary or rescind that suspension or revocation.

(7) An appeal to the minister under subsection (6) does not affect the decision of the administrator, which shall remain in effect until the decision of the minister.

(8) A notice of a decision of the minister under subsection (6) shall be given in the manner described in subsections (3) and (4).

(9) A decision of the minister under subsection (6) may, within 30 days of service upon the inspector who appealed the decision of the administrator, be appealed to a judge of the Trial Division and that appeal does not affect the decision of the minister, which shall remain in effect until the decision of a judge of the Trial Division.

[60/03 s22; 103/03 s11](#)

## PART VII GENERAL

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### **Fees and forms**

23. The administrator may set fees and prescribe forms necessary for the administration of these regulations.

[60/03 s23](#)

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### **Commencement**

24. Except as otherwise noted, these regulations shall come into force on May 30, 2003 .

[60/03 s24](#)

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### **Repeal**

25. **The *Heating Oil Storage Tank System Regulations* , Newfoundland and Labrador Regulation 27/02, are repealed.**

[60/03 s25](#)