

Northern Energy Advantage Program (NEAP)

Program Rules

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[April 8, 2022]

These **Program Rules**, as amended from time to time, apply to the Northern Energy Advantage Program (NEAP), previously known as the Northern Industrial Electricity Rate Program (NIER), effective for the five-year period commencing April 1, 2022, and ending March 31, 2027.

Note that NEAP Rules will take effect upon a date to be determined by the Ministry of Northern Development, Mines, Natural Resources and Forestry (NDMNRF).

In order to continue to receive rebates under NEAP, **Current Participants** are required to enter into an agreement to amend existing conditional funding agreements entered into with NDMNRF under the **2017-2022 Extended NIER Program**, or a new conditional funding agreement at NDMNRF's sole discretion. Selected new applicants will be required to enter into new conditional funding agreements with NDMNRF. Rebates are subject to the **NEAP Agreement's** terms and conditions, as may have been amended. In the event of a conflict or inconsistency between a **NEAP Agreement** and the **Program Rules**, the **NEAP Agreement** shall prevail.

1.0 Program Overview

In Northern Ontario and across the world, industries are investing in energy conservation programs and infrastructure to foster and maintain a globally competitive advantage.

Northern Ontario's largest forestry, mining and steel production companies are also its largest electricity consumers and continue to be cornerstones of the northern economy. Promising new economic development opportunities and growth in the knowledge-based and clean technologies sectors are fueling innovation and rapid technological advancement in these traditional industries. Improving performance of equipment and/or production processes provides energy and non-energy related benefits that may include:

- Increased system efficiency and reduced energy consumption
- Greater reliability and reduced maintenance costs
- Improved financial performance increasing competitiveness, and
- Reduced environmental impact

New technologies and a growing "culture of conservation" are shifting the view of energy as a manageable input to production in the global economy.

Since its inception in 2010, the NIER Program has provided approximately \$1.3 billion in electricity rebates to eligible large industrial companies located in Northern Ontario. The most recent term of the program, the **2017-2022 Extended NIER Program** ended on March 31, 2022.

Building on this success, the Ontario government is implementing an enhanced, renamed program, NEAP. With an initial duration of five years, the program will continue supporting Northern Ontario's largest industrial electricity consumers in their efforts to reduce their electricity costs, in order to sustain jobs and maintain global competitiveness. This new term of NEAP will operate over the **Fiscal Years** beginning in 2022-23 and ending on March 31, 2027. The program will continue to be administered by NDMNRF.

Through the introduction of NEAP, the Ontario government has focused on introducing enhancements to the program that will help attract investments and advance opportunities in Northern Ontario. NEAP will allow new mining and forestry operations to participate in the program, encourage companies to make key long-term **Transformational** investments, and support activities that are aligned with Ontario's first-ever Critical Minerals Strategy, including the development of clean technologies and an integrated battery supply chain.

NEAP is a non-entitlement, discretionary program. **Qualifying Participants** are subject to, among other things, meeting and maintaining all eligibility and program requirements, as may be amended from time to time. Qualifying levels of eligible electricity consumption must be, as measured and verified through approved metering installations, both:

- (i) Purchased directly or having historically purchased as a sub-metered customer from the Independent Electricity System Operator (IESO) administered electricity market or from a local distribution company, including Hydro One Inc.; and

- (ii) Consumed at each of the individual qualifying facilities.

NEAP will provide **Qualifying Participants** with an electricity cost rebate of two cents per kWh of electricity consumed during the period provided for in the **NEAP Agreement**, where such consumption is verified in accordance with these **Program Rules** and the **NEAP Agreement**, subject to the following criteria:

Rebates and Rebate Caps

Facility Annual Caps

Subject to the **Full Funding Annual Cap**, the annual rebate for each eligible facility will be capped at a **Facility Annual Cap** based upon that facility's average annual eligible electricity consumption over the period starting April 1, 2017, through March 31, 2020 the **2017-2020 Period**. Prior to entering into any **NEAP Agreement**, the determination of **Full Funding Annual Cap** and **Facility Annual Caps** may be reduced by NDMNRF, at its discretion, taking into consideration any structural reductions of eligible electricity consumption from the **2017-2020 Period**. In addition, prior to entering into any **NEAP Agreement** with **Current Participants** that are, and those **Current Participants** that were previously associated with, sub-metered indirect **Current Participants**, the determination of **Facility Annual Caps** may be determined by NDMNRF, at its discretion, not to exceed the overall previous **Facility Annual Caps** amount that would be based upon the average annual eligible electricity consumption for the **2017-2020 Period**. For new applicants without consumption history during the **2017-2020 Period**, or other period satisfactory to NDMNRF, the **Facility Annual Cap** will be the applicant's reasonable estimate of the facility's first 12 months of eligible electricity consumption as set out in its Energy Management Plan (EMP), which estimate is subject to NDMNRF's acceptance.

Qualifying Participant's Overall Annual Caps

- The overall, aggregate annual rebate for each **Qualifying Participant** will be capped at a **Full Funding Annual Cap**, at a maximum amount based on electricity consumption that shall be the aggregate of the **Qualifying Participant's Facility Annual Caps**.

Transfer of a Facility Annual Cap

- Rebate caps, including **Facility Annual Caps**, are not shareable. Rebate caps, including **Facility Annual Caps** may be transferable to another entity at NDMNRF's discretion, subject to any terms or conditions NDMNRF may impose, in addition to potential transfers by **Multiple Facility Participants** described below.

Participants with Multiple Facilities – Transfer Requests

- **Qualifying Participants** that have entered into a **NEAP Agreement** and that have multiple eligible facilities, each with a **Facility Annual Cap** set out in the **NEAP Agreement**, **Multiple Facility Participants**, may submit a request to NDMNRF, prior to March 31, 2026, for an irreversible transfer of all or part (but in any event not less than \$250,000) of one of its **Facility Annual Caps** for the remainder of the term of its **NEAP Agreement**, from:
 - (i) One of such eligible facilities that has or will be decreasing its electricity consumption below the amount corresponding to its **Facility Annual Cap** on an intended permanent basis, a **Reducing Facility**, to
 - (ii) Another of such eligible facilities that has or will be increasing its electricity consumption above the amount corresponding to its **Facility Annual Cap** at a minimum for the remainder of the term of the **NEAP Agreement**, an **Increasing Facility**.
- Transfer of all or any part of a **Facility Annual Cap** from a **Reducing Facility** to an **Increasing Facility** is entirely at NDMNRF's sole and absolute discretion and subject to any terms or conditions NDMNRF may impose.
- In addition to the above, factors that may support a **Multiple Facility Participant's** transfer request may include (without limitation):

- (i) Eligible capital expenditures made or to be made at the **Increasing Facility** to increase production, increase electricity consumption, or maintain or create jobs;
 - (ii) Maintenance or creation of jobs;
 - (iii) A narrow time period between the start of the decrease and increase in electricity consumption at the applicable facilities, particularly if such consumption transitions begin within a continuous 12 month period; and
 - (iv) Such other factors as determined by NDMNRF.
- A decision regarding a transfer request may include consideration of other factors not within the Multiple Facility Participant's control, including but not limited to **Applications in the Program Queue**. In no event shall a transfer increase the participant's **Full Funding Annual Cap**. The **Multiple Facility Participant** must be in compliance with the terms of its **NEAP Agreement** and the **Program Rules** and otherwise continue to meet and maintain all eligibility requirements. For any NDMNRF approved transfer, the Multiple Facility Participant will be required to enter an agreement amending its **NEAP Agreement** on such terms and conditions the Ministry may impose.
 - **Multiple Facility Participants** are encouraged to contact NDMNRF for further information on the transfer request process and requirements.

The foregoing regarding Rebates and Rebate Caps is subject to Section 3.2 of these **Program Rules**, including limitations on NEAP funding, downward adjustments of all rebate caps, including **Facility Annual Caps**, as a result of structural reductions of consumption at a facility, reductions where a facility is no longer owned and controlled by a **Qualifying Participant**, and other reductions as are provided for in the **NEAP Agreement**.

All references in these **Program Rules** to electricity, including being "eligible" or "consumed" or "purchased", means electricity purchased by a participant directly from either the IESO administered electricity market, or from a local distribution company, including Hydro One Inc., and consumed at each of the individual facilities, which is measured or verified by the IESO or a distribution company, as the case may be, at an approved metering installation.

2.0 Program Objective

The objective of NEAP is to assist Northern Ontario's largest industrial electricity consumers to develop and implement long-term efficiency and sustainability measures. As an incentive program, NEAP is intended to provide a bridge for **Qualifying Participants** to achieve greater electricity efficiency by committing to the development and implementation of an EMP.

It is recognized that Northern Ontario's industry sectors and individual companies have unique operating models, techniques and production cycles which will influence the manner in which electricity conservation and efficiency techniques are developed, measured and reported. It is also recognized that in some circumstances, the benefits of implementing energy savings are not immediately realized and, in the case of new and ongoing capital projects, may take several years to achieve desired results. It is also recognized that many companies in Northern Ontario have already made significant investments in energy conservation through participation in the **Original NIER Program**, the **Extended NIER Program**, the **2016-2017 Extended NIER Program**, and the **2017-2022 Extended NIER Program**, capital projects and/or by participation in one of many energy conservation programs administered by the IESO (and formerly by the Ontario Power Authority prior to its amalgamation with the IESO).

Acknowledging the unique circumstances of industry sectors, individual companies and efforts currently underway, NEAP is intended to:

- Support continuing efforts of companies already engaged in energy savings programs to further advance their objectives while assisting other companies to begin the process of comprehensive energy management planning.
- Allow **Qualifying Participants** an opportunity to tailor and optimize their electrical savings and efficiency projects and/or programs to the specific circumstances of their operations.

Supported by electricity rate rebates, it is the expectation of NEAP that by **Qualifying Participants** committing to the development and implementation of a comprehensive EMP, energy efficiency and conservation targets are achievable.

Through the successful implementation of an EMP, northern industries that are **Qualifying Participants** will continue to maintain global competitiveness, create and protect jobs, and continue their substantial contribution to the overall economic prosperity of Northern Ontario.

3.0 Eligibility

3.1 Current Participants

In order for **Current Participants** to participate in NEAP, they must be in good standing in respect of the **2017-2022 Extended NIER Program**, unless decided otherwise by NDMNRF in its sole discretion, and they must enter into a **NEAP Agreement**.

Current Participants are not required to submit a new application, unless otherwise requested by NDMNRF, however, Section 5.0 (Administration) of these **Program Rules** sets out additional requirements for maintaining eligibility throughout the duration of the program.

3.2 New Applicants

New applicants to NEAP must meet and maintain all the following criteria in order to be considered for selection into NEAP. Section 5.0 (Administration) of these **Program Rules** sets out additional requirements for maintaining eligibility throughout the duration of the program.

An application will not be considered to have been received unless it is determined by NDMNRF, in its sole and absolute discretion, to be complete. An application will not be considered complete by NDMNRF unless all of the application materials, including a developed EMP and any additional information and documents requested by NDMNRF or its agents, have been submitted by the applicant to NDMNRF's satisfaction within the time specified within these **Program Rules** or by NDMNRF.

Acceptance of Applications

Acceptance of new applications to NEAP will commence on, and be subject to receipt of, future notice from NDMNRF, which will be posted on the **Website**. The notice will specify the date on which new applications may be accepted. Until such time and subject to such notice, NDMNRF will not be accepting or evaluating new applications, and any applications that may be received prior to such notice will not be accepted or evaluated, nor shall they be considered to be an **Application in the Program Queue**, subject to the following paragraph.

Upon and following the commencement date of acceptance of applications set out in any notice described above, when less than \$250,000 of **Unallocated Funding** is approved and available, as determined by NDMNRF, a notice will be posted on the **Website** indicating that, although new applications will continue to be accepted, they will not be assessed unless and until **Unallocated Funding** in the amount of at least \$250,000 becomes available, as determined by NDMNRF. If \$250,000 or more of **Unallocated Funding** becomes available, as determined by NDMNRF, complete **Applications in the Program Queue** will be assessed by NDMNRF in the order in which they were received, one such application at a time, except where the funding is allocated to address a **Rebate Funding Shortfall** as described below.

Upon an applicant's acceptance into NEAP, in the event that **Unallocated Funding** is less than a new selected applicant's **Full Funding Annual Cap**, the **NEAP Agreement** would provide for a maximum annual rebate equal to the **Unallocated Funding** in order to ensure that approved overall NEAP funding is not exceeded. The new selected applicant would still be required to meet all regular NEAP and contractual requirements including the full development and implementation of an EMP.

If additional, **Unallocated Funding** were to become available for disbursement, as determined by NDMNRF, then NDMNRF would consider, in its sole and absolute discretion, allocating such funding to a fully compliant participant with a **Rebate Funding Shortfall** up to the amount of such **Rebate Funding Shortfall**, in the order in which applications were received. In the event that the **Rebate Funding Shortfall** for that new recipient is reduced to zero, and more than \$250,000 of new **Unallocated Funding** becomes available, as determined by NDMNRF, the next complete **Application in the Program Queue** will be assessed by NDMNRF in the order in which the applications were received.

Eligible Facilities

Each individual facility of the applicant must satisfy **all** the following criteria to qualify for participation in NEAP. The individual facility must be:

- Directly owned and controlled by the applicant;
- A production or processing facility that consumes a minimum of 50,000 megawatt hours (MWh) of electricity per year, as measured by the IESO or a local distribution company at an approved metering installation. This electricity must be both purchased by the applicant from the IESO administered electricity market or from a local distribution company, including Hydro One Inc. and consumed at each of the individual qualifying facilities;
- Classified as being within one of the following North American Industry Classification System (NAICS) 2002 industry sectors:
 - 21 Mining and Oil and Gas Extraction;
 - 31-33 Manufacturing, with the exception of facilities that are designated as Sawmills and Wood Preservation (3211), which would not be eligible for NEAP; or
 - Other industries may be considered, at the discretion of NDMNRF, where the company and/or facility is aligned with, or complementary to eligible industries, as identified above, such as the battery supply chain, clean technologies, etc.
- Located in Northern Ontario, defined as being within the collective territorial Districts of Kenora, Rainy River, Thunder Bay, Cochrane, Algoma, Sudbury, Timiskaming, Nipissing, Manitoulin, and Parry Sound; and
- A market participant purchasing electricity from the IESO administered electricity market or from a local distribution company, including Hydro One Inc.

Where applicable, an applicant may identify more than one directly owned and operated eligible facility in its application for NEAP. An applicant shall not submit more than one application.

A new applicant must clearly demonstrate to NDMNRF's satisfaction that it meets all these eligibility criteria in its application and EMP submission.

Solvency

Qualifying Participants must demonstrate ongoing solvency or other measure of operational viability for the duration of the period ending March 31, 2027, to the satisfaction of NDMNRF. NDMNRF, at its sole discretion and under such terms and conditions as NDMNRF deems appropriate, may accept a **Qualifying Participant's** demonstration of ongoing solvency or other measure of viability for some lesser period where there is a planned permanent closure of an otherwise eligible facility.

As part of the application, a new applicant will be required to submit:

- i. Audited annual financial statements from the two most recent fiscal years of the applicant;
- ii. Total capital expenditures from the most recent fiscal year of the applicant;
- iii. Annual forecast sales or production and Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA) for each facility for each of the applicant's fiscal years up to March 31, 2027; and
- iv. Forecast of total capital expenditures for each facility for the applicant's fiscal years ending March 31, 2027 and a list of projects associated with expenditures.

A new applicant under evaluation will be subject to review and evaluation by a qualified Financial Reviewer to be retained by NDMNRF, for NDMNRF's sole benefit, to provide the necessary due diligence to assess, among other things, the new applicant's solvency and operational viability.

NDMNRF, at its sole discretion and under such terms and conditions as NDMNRF deems appropriate, and subject to meeting other eligibility requirements, may permit, **Current Participants** that are operating under the *Companies' Creditors Arrangement Act (CCAA)*, or other debt relief legislation, to participate in NEAP.

Prepare and Implement an Energy Management Plan

Participation in NEAP is subject to, among other things, the submission of an EMP for each facility, which must be satisfactory to NDMNRF, detailing proposed steps and methods for improving electrical efficiency and sustainability over the duration of the participant's **NEAP Agreement**.

The EMP must, at a minimum satisfactorily meet the requirements set out at Section 4.0 of these **Program Rules** – "Energy Management Plan Requirements".

4.0 Energy Management Plan Requirements

Comprehensive energy management planning is a process of monitoring, controlling, and evaluating energy use in an organization, then taking action to achieve conservation and efficiency targets. It begins with analyzing energy consumption and identifying opportunities to save energy and estimating the potential for how much energy each opportunity will save. While periodic energy audits may provide a snapshot in time and identify where isolated efficiency projects provide temporary energy savings, comprehensive energy management planning is a process of continuous improvement.

This section sets out the required contents of a comprehensive EMP. While NEAP focuses on electrical energy efficiency, it is important for Northern Ontario industries that are **Qualifying Participants** to consider all energy sources, such as natural gas, coal, diesel, or renewable fuels, including biomass, in order to have a complete understanding of opportunities for energy cost reduction and potential for self-generation. Accordingly, NDMNRF highly recommends that **Qualifying Participants** consider developing EMPs that account for all their energy needs, in conjunction with the requirements for NEAP.

Climate change adaptation supports the long-term resiliency and sustainability of northern industries in the face of climate uncertainty and may support energy management planning goals.

EMPs and quarterly report submissions may also, but are not required to, highlight activities undertaken that support **A Made-in-Ontario Environment Plan**. Such measures could include, but are not limited to:

- Undertaking climate change risk assessments and identifying short and long-term mitigation measures;
- Investments in adaptive technology;
- Abatement of Green House Gas (GHG) and other emissions; and
- Ongoing measures to improve energy efficiency.

Despite anything contained in the **Program Rules** or the **NEAP Agreement**, **Qualifying Participants** will be solely responsible for ensuring the technical, regulatory, financial, economic, and overall viability of their EMPs. NDMNRF shall have no responsibility whatsoever to independently assess the viability of any application or project nor any liability whatsoever in the event that an EMP turns out not to be viable in any respect.

Required Contents of an Energy Management Plan

Current Participants can continue to implement their NDMNRF approved EMP and provide updates through the quarterly reporting process, in accordance with their **NEAP Agreements**. They are not required to submit revised EMPs, unless otherwise requested by NDMNRF in its discretion; however, an action plan submitted in the last quarterly report and accepted by NDMNRF under the **2017-2022 Extended NIER Program** for each EMP (with updates acceptable to NDMNRF, including the identification of new and ongoing measures planned to improve electricity efficiency and overall facility competitiveness for fiscal years 2017-2022 and beyond) will be incorporated into and form part of any rebate agreements entered into under NEAP, and **Current Participants** will be required to adhere to those action plans.

A new applicant will submit a separate EMP for each facility proposed for inclusion under NEAP, which must include the following sections.

Section 1: Executive Summary

The EMP shall begin with a brief overview highlighting the contents of the EMP with supporting tables and charts summarizing key numbers (e.g., energy performance, conservation targets, projects, etc.).

Section 2: Background

This section shall describe the nature of the applicant's business and its operations to set context for the EMP. Section 3 requires detailed information on electrical consumption, costs, production and specifics on existing and proposed conservation initiatives, and shall identify:

1. Process descriptions, physical location and access to resources, life of operation, plant operations, and factors that affect energy use and future energy requirements.
2. The applicant's Corporate Energy Policy (if one exists), or a statement of the applicant's desired objectives via participation in NEAP.
3. Key challenges and constraints to achieving energy reduction goals (e.g., resources, capital, expertise, corporate commitment, data, commodity prices, etc.).
4. The members of the applicant's energy team (if applicable) and full contact details.
5. Any other relevant information with respect to electricity conservation and the nature of the applicant's industry related to the program requirements of NEAP.

Section 3: Baseline Information Requirements

This section shall provide details about the applicant's electricity consumption for the facility, the sources of the electricity, and annual costs by source, where applicable. The more detail that is presented in this section, the easier it will be to demonstrate progress and the overall success of the EMP.

A. Electricity Consumption Baseline Requirements

For each year of the past three billing years prior to the application, or for each year that data exists where less than three years of data exists, please identify the following:

- i. Electricity supply sourcing (i.e., purchased/self-generated) with a description of how supply/consumption is measured and recorded for each source identified;
- ii. Annual electricity consumption in megawatt hours (MWh) by source, with supporting documentation; and
- iii. The baseline analysis that will be used as a point of comparison for future electricity use. Develop a baseline analysis of electricity consumption, including:
 - a. Description/definition of significant energy users;
 - b. Description of key energy use drivers (i.e., weather, production levels, product mix, tonnes milled, etc.);
 - c. Description of the correlation between significant electricity users and key drivers;
 - d. Data to justify key assumptions used in developing the baseline analysis; and
 - e. A baseline period that is representative of typical operating conditions and captures the effects of changes in each of the key energy use drivers identified (e.g., if weather is identified as a key energy use driver, the baseline period must be at least one year).

B. Production Baseline Data Requirements

Identify the categories of products produced at the facility, for each year of the past three complete fiscal years, and for each product:

- i. Provide the annual volumes of production; and
- ii. Provide energy intensity calculations.

For a new applicant without a prior three-year production history, the period may be a different recent period, or the new applicant's reasonable estimate, which period or estimate must be satisfactory to NDMNRF.

C. Forecast Data for NEAP Duration 2022-2027

Identify the following forecasted or actual data for each fiscal year beginning in 2022 to 2027:

1. Electricity Forecast Data

- i. Explain electricity supply sourcing (e.g. purchased/self-generated);
- ii. Provide the forecast annual electricity consumption in MWh by source; and
- iii. Describe how supply/consumption will be measured and recorded for each source of electricity.

2. Production and Electricity Consumption Forecast Data

Identify the categories and grades of products produced at the facility and for each product for each fiscal year beginning in 2022 to 2027:

- i. Provide the forecasted annual volumes of production;
- ii. Identify forecasted electricity consumption in MWh per unit of production by facility; and
- iii. Identify any anticipated events or foreseen circumstances that may influence production and consumption forecasts.

Section 4: Efficiency and Conservation Targets

While the EMP must identify and achieve efficiency and conservation targets, the scale and complexity of any given measure will influence the effort and time it takes to realize efficiency targets. Other circumstances such as variation in production cycles may also make it difficult to measure progress at regular intervals.

As a process of continuous improvement, energy management planning is about achieving long-term sustainability and NDMNRF will consider both measured results (quantifiable data) and results or actions that demonstrate progress towards achieving targets, including activities supporting **A Made-in-Ontario Environment Plan**, in its review and evaluation of participants.

Demonstrating quantifiable results could include, but not be limited to:

- Reduction in electricity use while maintaining production levels (net savings);
- Maintaining stable electricity consumption use while increasing production levels (improved efficiency); and
- Reduction of electricity consumed directly from the grid through self-generation projects such as a co-generation plant.

These results can be achieved by such measures as replacing or upgrading inefficient equipment and/or shifting to more efficient production techniques. These results can also be measured in overall electricity costs, which may be further reduced by modifications in operations to shift consumption away from system-peaking hours to off-peak hours. While a reduction in overall electricity use may be attributable to decreased production levels for a variety of circumstances, it may still be possible to demonstrate efficiencies in such scenarios.

The EMP must describe what the demonstration of on-going progress could include, such as, but not limited to, actions involving:

- Achievement of key milestones in an EMP, such as actions demonstrating progress towards the implementation of cap making commitments to invest in new electrical efficiency capital projects.
- Establishment and filling of a dedicated Energy Manager position to demonstrate a corporate commitment towards conservation and efficiency.
- Efforts made towards achieving third-party certification such as the proposed ISO 50 001 certification for energy management systems.
- Efforts made towards meeting **A Made-in-Ontario Environment Plan**.
- For companies just beginning comprehensive energy management planning, initial steps such as completing energy audits or employee energy awareness programs to demonstrate progress towards electricity sustainability.

NDMNRF acknowledges that many Northern Ontario companies have made significant investment and effort towards achieving energy efficiency. For example, various participants in the **Original NIER Program** have been successfully implementing EMPs since the program's inception in 2010. In addition, a number of industrial facilities have been involved in one or more of the IESO's conservation and demand management or other programs and continue to achieve ongoing results.

In recognition of these efforts, participation in relevant and progressive electricity conservation and efficiency programs, including activities supporting **A Made-in-Ontario Environment Plan**, will contribute to the requirements of NEAP and allow **Qualifying Participants** to advance their existing goals and/or establish new conservation targets and objectives.

Where desirable in NDMNRF's opinion, NDMNRF may work with new applicants to assist them to identify and define electricity efficiency and sustainability measures suitable to the nature and circumstances of their operations to meet the program objectives of NEAP.

Accordingly, in this section:

1. Describe measures/initiatives undertaken by the applicant since the beginning of the 2022-23 fiscal year to reduce electricity consumption at the facility.
2. Specify the impact these measures have had at the gross levels by year (e.g., load shifted savings, demand reduction, emergency reserve, etc.) and characterize their overall success.

3. Develop an Action Plan. In a section entitled “Action Plan”, identify new and ongoing measures planned to improve electricity efficiency and overall facility competitiveness for the **Fiscal Year** 2022-23 and beyond. Describe in detail the measures, initiatives and/or projects currently in place or planned, and for **each** measure:
 - i. Quantify the impact/savings that the measure is projected to have at the facility;
 - ii. Provide a schedule showing estimated dates for initiation, milestones, and completion;
 - iii. Provide forecast operating and capital cost schedules associated with the measure;
 - iv. Indicate whether the measure has been committed to or approved at the time of the submission of this plan, and if not, describe what conditions/preconditions are necessary to secure the commitment or the approval;
 - v. Indicate when the condition(s) must be in place in order for the measure to achieve the projected impacts savings described in (i) above; and
 - vi. Indicate if the measure is subject to conditions of project financing, and provide financial details, including expectations relative to other relevant provincial programs.
4. Set out implications of the implementation of the EMP on your company’s labour force (e.g., new jobs created, jobs maintained, etc.), or broader labour force implications influenced by the EMP (e.g., local direct and/or indirect jobs and economic spin-offs for Northern Ontario suppliers, services, construction, etc.).

Section 5: Certification

Each EMP must be accompanied by a signed endorsement from a recognized engineering firm and/or an accredited professional specializing in areas of electrical power, conservation projects, technology, monitoring and verification. Each EMP shall be prepared, signed and dated by a P.Eng. pursuant to the *Professional Engineers Act* (Ontario) or by an accredited professional specializing in areas of electrical power, conservation projects, technology, monitoring and verification.

Each EMP will be subject to review and evaluation by a qualified Technical Reviewer to be retained by NDMNRF, for NDMNRF's sole benefit, to provide the necessary due diligence to assess, among other things, EMP efficiency and conservation targets and the applicant's capacity for implementation and adherence to the **Program Rules**.

Accurate and routine measurement of energy savings from the energy efficiency projects detailed above can reduce uncertainty about the efficacy of the projects and help guide the selection of future projects. Regular reporting and monitoring will also assist in future estimates of savings. Progress towards achieving efficiency and conservation targets of approved EMPs will be subject to quarterly review by NDMNRF as detailed in Section 5.0 (Administration) of these Program Rules, below.

5.0 Administration

Application Process

The application material, including the application form and instructions for ensuring a complete submission, can be found on the **Website**. Upon receipt of an application package, NDMNRF will endeavour to advise applicants whether the submission is complete within 15 working days of receipt.

Rebate Disbursement

Rebates will be disbursed on a quarterly basis based on the Province’s **Fiscal Year** and commence in the quarterly period immediately following the quarterly period in which the approved new applicant enters into a **NEAP Agreement**. For disbursement of any retroactive rebates to which a **Qualifying Participant** might be eligible, see “Retroactivity” below.

On-going quarterly rebates are subject to meeting all terms and conditions, including Quarterly Reporting requirements (see Quarterly Reporting below). Upon demonstration of satisfactory results and substantial progress in successfully implementing the approved EMP, quarterly rebates will normally be disbursed within 45 days from the end of the quarter for which the rebate is calculated or on such dates as NDMNRF may determine.

Rebates will not be paid unless and until each individual facility of the selected new applicant consumes a minimum of 50,000 MWh of eligible electricity during the year and meets other eligibility requirements specified below during the year, subject to the **NEAP Agreement**.

Review of Energy Management Plan

NDMNRF reserves the right, at its sole and absolute discretion, to impose additional terms and conditions relating to the obligation of the **Qualifying Participant** to make satisfactory changes and improvements to each EMP in accordance with prescribed milestones and timelines.

The failure to comply could constitute an event of default for the purposes of the **NEAP Agreement**.

Quarterly Reporting

NEAP participants are required to submit quarterly reports within **20 days** from the end of the quarter.

Participants will be required to submit quarterly summary reports which shall include, but not be limited to, the following information with respect to the preceding quarter:

- Details regarding the status of the implementation of the EMP, including but not limited to achievement of the milestones;
- Details regarding how the objectives of the EMP have been met;
- Forecast for at least upcoming 12 months on a rolling quarterly basis;
- Data required for the measurement of performance identified in the EMP;
- Details on variance from actual to forecast must be included;
- Risks of not achieving targets and milestones identified in this reporting cycle and updates on previously identified risks;
- Updated forecasts and actuals, compared to the baseline information provided in the application; and
- Opportunities identified for additional savings measurements.

The 4th Quarterly Report in each **Fiscal Year** shall set out the number of full-time equivalent employees of the **Qualifying Participant** on an annual basis.

Quarterly reports will be subject to review and evaluation by NDMNRF's Technical Reviewer to be retained to assess progress towards meeting EMP objectives and adherence to **Program Rules**.

Commencement

Quarterly reporting will commence at the end of the **Qualifying Participant's** first full fiscal quarter following entering into a **NEAP Agreement**.

Retroactivity

Current Participants that enter into **NEAP Agreements**, as required by the **Program Rules**, no later than December 31, 2022, would be eligible for retroactive rebates based on eligible electricity purchased and consumed at eligible facilities from and after April 1, 2022, subject to the **NEAP Agreements**.

Newly selected applicants that enter into **NEAP Agreements** prior to March 31 of a **Fiscal Year** would be eligible for retroactive rebates based on eligible electricity purchased and consumed at eligible facilities from and after April 1 of the same **Fiscal Year**, subject to the **NEAP Agreements**, but in any event not for any prior **Fiscal Years** that these **Program Rules** may apply to.

If, and to the extent applicable, **Qualifying Participants** are entitled to rebates in respect of eligible electricity already consumed from April 1 of the applicable **Fiscal Year** up until the end of the last fully completed quarter prior to their entering into a **NEAP Agreement**, such rebates may be disbursed upon receipt by NDMNRF of satisfactory quarterly reports for the completed quarters.

Maintaining Minimum Electricity Consumption

Qualifying Participants must maintain a minimum annual electrical consumption rate of 50,000 MWh per year per facility from the IESO administered electricity market or from a local distribution company, including Hydro One Inc.

In the event that a participating facility consumes less than 50,000 MWh per year in any given year throughout the duration of NEAP, that **Qualifying Participant's** facility can remain in NEAP if it can be demonstrated, to the satisfaction of NDMNRF, that the lower consumption is wholly and demonstrably attributable to the achievement or realization of energy efficiencies.

Maintaining Operations

Planned or unforeseen events of outage, shutdown or other matters contributing to the ceasing of commercial operations, will render a participant's facility ineligible to continue in NEAP, subject to the **NEAP Agreement**, and at NDMNRF's sole and absolute discretion, and on such terms that NDMNRF may impose.

Facilities

Each individual facility must continue to be directly owned and controlled by the participant. Where a facility no longer meets the forgoing criteria, that facility will not be considered a facility for the purpose of NEAP for the transferor and there will be a corresponding reduction in the participant-transferor's Caps. Rebate caps, including **Facility Annual Caps**, may be transferable to a purchaser of a facility at NDMNRF's discretion, subject to any terms or conditions NDMNRF may impose.

Application Period

See Section 3.2 of these **Program Rules**, "Acceptance of Applications".

Legal Agreement

All **Qualifying Participants** will be required to enter into a **NEAP Agreement** aligned with these **Program Rules**.

Coordination with Other Energy Programs

Subject to the portion of these **Program Rules**, below, dealing with the Industrial Electricity Incentive (IEI) Program, nothing in NEAP restricts **Qualifying Participants** from applying to other energy programs aimed at reducing energy costs and conservation subject to the requirements, including restrictions, of such other programs.

Industrial Electricity Incentive

Any load settled under the IESO's IEI Program is not eligible to receive NEAP rebates, which will be provided for in the **NEAP Agreement**. NEAP rebates will be paid based on eligible electricity volumes that will be net of IEI Eligible Incremental Electricity as defined in the IEI Stream 1, IEI Stream 2, and IEI Stream 3 Program Rules, as applicable, and any other electricity volumes specified under the IEI Program.

In order to ensure the forgoing, consultations and sharing of information will take place among NDMNRF, the Ministry of Energy, and the IESO.

Applicants and **Current Participants** should reference the IEI Program Rules for further details on the IEI Program (<https://www.ieso.ca/en/Sector-Participants/Energy-Procurement-Programs-and-Contracts/Procurement-Archive>).

Additional Rules

Where NDMNRF may take an action or make a determination under these **Program Rules**, the decision to take such action or make such determination shall be at NDMNRF's sole and absolute discretion. Any reference to NDMNRF's discretion in these **Program Rules** shall mean NDMNRF's sole and absolute discretion.

From time to time NDMNRF, in its discretion, may amend NEAP and the **Program Rules** without prior notice. Without limiting the generality of the foregoing, such changes may apply to new applications, applications already submitted and to **Current Participants** which have entered into a **NEAP Agreement**. Notice of any amendments will be posted on the Website and will apply to any applications in progress, future applications, selected applications, and **NEAP Agreements** as may be specified on the notice.

NDMNRF may, but is not obligated to, request clarification, additional information, documentation, and statements in relation to any application at any time and may establish the time frame in which the request is to be responded to.

NDMNRF may reject any incomplete application, any application that does not satisfy all of the eligibility requirements or is ineligible, and any application in respect of which information is not satisfactory to NDMNRF or its advisers in any respect, in its discretion.

Notwithstanding anything contained in these **Program Rules**, NDMNRF reserves the right, in its discretion, to reject any application in whole or part whether or not completed properly, and whether or not it contains all necessary information, and reserves the right to discuss different or additional proposals to those included in any application.

No commitment has been made by NDMNRF to enter into any **NEAP Agreement**, and neither the issuance of a notice of selection, nor the participation by NDMNRF or any of its representatives in the NEAP process, will create a commitment or any form of agreement between NDMNRF and any applicant or **Qualifying Participant**. No binding commitment will be created unless and until NDMNRF and a **Qualifying Participant**, each in its discretion, enter into a fully executed written **NEAP Agreement**. For further clarity, if pursuant to the *Financial Administration Act* (Ontario), the Province does not receive the necessary appropriation from the Ontario Legislature for payment under NEAP, the Province is not obligated to enter into any **NEAP Agreements**, nor to make any such payment under NEAP.

NDMNRF reserves the right to cancel any part or all of NEAP at any time and for any reason, or to suspend NEAP, including suspending the acceptance or assessment of applications, in whole or in part, for any reason for such period of time as NDMNRF shall determine in its discretion, in each case without any obligation or any reimbursement to any applicant or **Current Participant**.

Each **Qualifying Participant** shall be solely responsible for its own costs and expenses relating to NEAP, including costs related to the preparation and submission of its application and the development and implementation of its EMPs, whether or not an application is accepted, or NEAP is suspended, revoked, amended, or revised. Under no circumstances shall NDMNRF be liable for any claims for compensation or damages, including any indirect, punitive, or consequential damages associated with a **Qualifying Participant's** participation in NEAP, or an applicant's submission of an application. **Qualifying Participants** irrevocably and unconditionally waive any such claims against NDMNRF, whether relating to an alleged breach by NDMNRF of the **Program Rules** or otherwise.

NDMNRF shall not be liable for any delays in processing, reviewing, accepting, or rejecting an application, providing a notice of selection, or entering into any **NEAP Agreement**.

NDMNRF reserves the right, in its discretion, to waive any informality, irregularity, or non-compliance with respect to an application, or with respect to an applicant or **Qualifying Participant's** compliance with these **Program Rules**, including by extending any deadline, which for clarity may be any deadline affecting NDMNRF, the **Current Participant**, or the applicant.

The rights reserved to NDMNRF in these **Program Rules** are in addition to any other express rights or any other rights existing under the **Program Rules**, the **NEAP Agreement**, or at law or in equity, including any rights which may be implied in the circumstances, and NDMNRF shall not be liable for any claim, losses, liabilities, penalties, obligations, payments, costs, and expenses, or any direct or indirect damages incurred or suffered by any applicant, **Current Participant**, or third party resulting from NDMNRF exercising any of its express or implied rights under NEAP, including the right to exercise its discretion hereunder. In submitting an application, each applicant agrees that it waives any rights it may have to bring a claim or otherwise against NDMNRF for failing to issue the applicant a notice of selection, or for issuing a notice of selection to another applicant.

Each applicant and **Current Participant** agrees that, in no circumstances shall it or any third party be entitled to recover any damages against NDMNRF, whether such claim for damages arises in contract, tort, warranty, equity, negligence, intended conduct, detrimental reliance, or otherwise, including any action or claim arising from the acts or omissions, negligent or otherwise, of NDMNRF, and including any claim by the applicant or **Current Participant** that NDMNRF has failed to comply with these **Program Rules**.

Applicants and **Current Participants** authorize the collection by NDMNRF of the information set out in the application and otherwise collected in accordance with the terms hereof, and the use and sharing of such information for the purposes set out in or incidental to these **Program Rules** and the **NEAP Agreement**, and for the purpose of offering, managing, directing, and evaluating NEAP generally. Applications and the **NEAP Agreement** will provide further for the collection and sharing of information.

NDMNRF may extend the time to meet the requirements of these **Program Rules** at its discretion. Any such extension of time shall only be valid and binding on NDMNRF if provided in writing by an authorized representative of NDMNRF. Any failure to meet the revised time requirement shall have the same consequences as if the original time requirement had not been met.

Despite the fact that these **Program Rules** were drafted by NDMNRF and its advisors, applicants and Current Participants acknowledge and agree that any doubt or ambiguity in the meaning, application or enforceability of any term or provision in these **Program Rules** shall not be construed against NDMNRF in favour of the applicant or **Current Participant** when interpreting such term or provision, by virtue of such fact.

6.0 Investor Class Stream

The introduction of an Investor Class rebate category within NEAP is intended to provide flexibility in program parameters to **Current Participants** that are making **Transformational** capital investments at their facilities that align with government priorities.

In order to access the Investor Class Stream, a **Current Participant** would need to provide a business case that details how the proposed investment meets required Investor Class criteria. NDMNRF may consider, at its discretion, providing flexibility with existing NEAP program parameters for a time-limited period during the investment or transition period. Support provided through the Investor Class will be determined on a case-by-case basis, based upon the request of the participant, and could include exceptions to the average electricity consumption levels in determining **Facility Annual Caps**. The **Current Participant** would be required to commit to, and meet, agreed upon performance metrics associated with the **Transformational** investment.

Investor Class benefits will be for a time-limited period. Once investments have been made and the time-limited Investor Class support has expired, the **Current Participant** would be eligible under general **Program Rules**. A **Current Participant** may continue to receive funding through NEAP while receiving support through the Investor Class.

Criteria

Current Participants seeking support under the Investor Class will be required to meet the following criteria:

- **Current Participants**, in good standing, that undertake **Transformational** investments that align with government priorities, such as significant decarbonization, transition to clean technologies, etc. (consideration may be given to other types of **Transformational** investments that result in significant economic, environmental, energy, or employment benefits).
- Minimum new investment of \$500 million directly related to the proposed **Transformational** project.
 - Consideration may be given to lower investment levels where it represents a significant proportionate investment for the company. The applicant will be required to demonstrate the significance of the investment, which will be assessed on a case-by-case basis.
- Commitments to performance metrics that may include, but not be limited to:
 - Sustaining operations at the facility for a period of time;
 - Achieving or maintaining employment targets;
 - Achieving other identified targets related to the proposed project (e.g. reductions of greenhouse gas emissions, etc.).
- Business cases must demonstrate a confirmed commitment to proceed with the proposed investment with identified timelines and should not be speculative in nature. Note that performance metrics may be applied after the time-limited Investor Class period.

Process

Current Participants may submit a business case to NDMNRF providing detailed information demonstrating how the proposed investment satisfies the Investor Class criteria, including, but not limited to:

- Detailed description of the proposed investment;
- Description of how the investment is **Transformational**;
- Identification of what the investment will achieve and proposed commitments;
- Timelines for the project, including construction phase and implementation, as well as anticipated electricity requirements during all phases;
- Demonstrated commitment for the investment/project, including but not limited to funding sources; and
- Proposed support requested under NEAP with identified timelines of when support is being requested.

Additional information may be requested by NDMNRF, as required, to assess the proposed investment.

Funding under the Investor Class will be available beginning in the 2023-24 **Fiscal Year**.

The submission of a business case does not necessarily represent the order in which business cases are considered for support. Acceptance of the business case and consideration under the Investor Class will be at the sole discretion of NDMNRF.

Participants in the Investor Class would be required to enter into an agreement under the Investor Class Stream.

7.0 Definitions

“**A Made-in-Ontario Environment Plan**” means the Ministry of the Environment, Conservation and Parks (MECP) **A Made-in-Ontario Environment Plan** at <https://www.ontario.ca/page/made-in-ontario-environment-plan> as MECP may designate and amend from time to time.

“**Applications in the Program Queue**” means any complete NEAP application that has been accepted but not assessed by NDMNRF due to there being less than \$250,000 of unallocated and approved NEAP funding, as determined by NDMNRF, as at the date of the applicant’s complete application to NEAP.

“**Current Participant(s)**” means a **2017-2022 Extended NIER Program** participant with whom NDMNRF had entered into a fully executed NIER Program Agreement and who has met the eligibility requirements for **Current Participants** set out in these **Program Rules**.

“**Extended NIER Program**” means the **Program Rules** for the first extended NIER Program, which existed for the period of April 1, 2013, to March 31, 2016.

“**Facility Annual Cap(s)**” means the annual rebate for each eligible facility, which is capped based upon that facility’s average annual eligible electricity consumption over the period starting April 1, 2017, through March 31, 2020.

“**Fiscal Year(s)**” means the Ontario government fiscal year, April 1st to March 31st of the following year, which is applied in these **Program Rules**.

“**Full Funding Annual Cap**” means the overall, annual aggregate of the Qualifying Participant’s Facility Annual Caps.

“**Increasing Facility**” means an eligible facility that has or will be increasing its electricity consumption above the amount corresponding to its Facility Annual Cap.

“**Multiple Facility Participants**” means **Qualifying Participants** that have entered into a **NEAP Agreement** and that have multiple eligible facilities.

“**NEAP Agreement(s)**” means, as applicable, either an individual one of the following or collectively all of the following:

- 1) NEAP conditional funding agreements with new selected applicants in accordance with the **Program Rules**, and
- 2) NEAP conditional funding agreements with **Current Participants**, as amended by agreement in accordance with the **Program Rules**.

“**Original NIER Program**” means the original Northern Industrial Electricity Rate Program, which existed for the period of April 1, 2010, to March 31, 2013.

“**Program Rules**” means the rules contained within this document, as amended from time to time, that apply to NEAP, effective for the five-year period commencing April 1, 2022, and ending March 31, 2027.

“**Qualifying Participants**” means collectively the **Current Participants** and selected new applicants which NDMNRF has determined satisfy NEAP eligibility criteria.

“**Rebate Funding Shortfall**” means the difference between a selected new applicant’s Full Funding Annual Cap and maximum rebate based on the **Unallocated Funding** at the effective date of its **NEAP Agreement**.

“**Reducing Facility**” means an eligible facility that has or will be decreasing its electricity consumption below the amount corresponding to its Facility Annual Cap on an intended permanent basis.

“**Transformational**” investments mean investments made under the Investor Class Stream that represent a significant change or evolution to existing operations or processes, and result in desired outcomes, such as increased competitiveness and/or sustainability, reduction in harmful environmental impacts, etc. Since transformational investments may vary from participant to participant or different industries, the applicant to the Investor Class will be responsible to demonstrate that the investment is transformational to NDMNRF’s satisfaction in its sole discretion.

“**Unallocated Funding**” means unallocated NEAP funding, as determined by NDMNRF, which is approved and available, determined as of the date a new applicant is selected for the NEAP and permitted to enter into a **NEAP Agreement**.

“**Website**” means NDMNRF’s NEAP website at <https://www.ontario.ca/page/northern-energy-advantage-program> or such other website as NDMNRF may designate from time to time.

“**2016-2017 Extended NIER Program**” means the program rules for the second extended NIER Program, which existed for the period of April 1, 2016, to March 31, 2017.

“**2017-2022 Extended NIER Program**” means the program rules for the third extended NIER Program, which existed for the period of April 1, 2017, to March 31, 2022.

“**2017-2020 Period**” means a facility’s average annual eligible electricity consumption over the period starting April 1, 2017, through March 31, 2020.