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Greenhouse Gas Reduction
(Renewable and Low Carbon Fuel Requirements) Act
RENEWABLE AND LOW CARBON FUEL

REQUIREMENTS REGULATION

Note: Check the Cumulative Regulation Bulletin 2014

for any non-consolidated amendments to this regulation that may be in effect.

[includes amendments up to B.C. Reg. 335/2012, January 1, 2014]

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Part 1 — Interpretation

Definitions

1 (1) In this regulation:

"Act" means the *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act*;

"appeal" means an appeal under section 14 (2) [what decisions may be

appealed, who may appeal, process of appeal] of the Act;

"CNG" means compressed natural gas;

"compliance report" means a Part 2 compliance report or a Part 3 compliance report;

"component" means a component under section 11.05 (2);

"feedstock" means the raw material, including, without limitation, biological and geological sources, from which fuel is produced;

"GHGenius" means the spreadsheet model of that name designed for analyzing the components attributable to the stages of the life cycles of fuels for the purpose of determining all greenhouse gases resulting from the production and use of those fuels for transportation purposes;

"hydrogenation-derived renewable diesel fuel" means a fuel that is

(a) made from plant or animal matter using a hydrogenation process, and

(b) suitable for use in

(i) a diesel engine, as defined in section 1 (1) of Schedule 1 of the *Carbon Tax Act*, or

(ii) a furnace or boiler to produce heat;

"life cycle" , in relation to a fuel, includes the stages under section 11.05 (3) that occur in the production of the fuel, including, without limitation, in the preparation of land for and the production of feedstock for that fuel;

"LNG" means liquefied natural gas;

"Part 2 compliance report" means a report required under section 3 of the Act;

"Part 3 compliance report" means a report required under section 7 of the Act;

"vehicle" means a vehicle, including one run on tracks or cables, whose propulsive power is derived from fuel and includes a carrier without propulsive power towed by such a vehicle.

- (2) For the purposes of the definition of "carbon dioxide equivalent" in section 1 of the Act, the carbon dioxide equivalent for a given mass of a greenhouse gas specified in Column 2 of the Schedule to the Carbon Neutral Government Regulation, B.C. Reg. 392/2008, is the number set out in Column 4 of that Schedule, opposite that greenhouse gas, multiplied by the mass of that greenhouse gas.

Standard for biodiesel fuel

- 2** A fuel must meet the Canadian General Standards Board Standard CAN/CGSB-3.524-2011 Biodiesel (B100) for Blending in Middle Distillate Fuels, as amended from time to time, to qualify as biodiesel fuel for the purposes of the Act.

[am. B.C. Reg. 335/2012, Sch. 1, s. 1.]

Exclusion from "gasoline class fuel"

- 3** Gasoline class fuel does not include fuel that, at the time of sale, the fuel supplier reasonably expects will be used in an aircraft.

[am. B.C. Reg. 320/2009, s. 3.]

Exclusion from "diesel class fuel"

- 3.1** (1) In this section, "**military operation**" means an operation undertaken to protect national security, support humanitarian relief efforts, participate in multilateral military or peace-keeping activities under the auspices of international organizations or defend a member of the North Atlantic Treaty Organization.

- (2) Diesel class fuel does not include fuel that is sold to the Department of National Defence (Canada) if at the time of sale the fuel supplier reasonably expects that the fuel will be used

- (a) in an aircraft,
- (b) by the Department of National Defence (Canada) in military vessels, vehicles, aircraft or equipment for military operations, or
- (c) in military vessels, vehicles, aircraft or equipment of a foreign country.

[en. B.C. Reg. 320/2009, s. 4; am. B.C. Reg. 335/2012, Sch. 1, s. 2.]

Part 2 fuel supplier

- 4** (1) For the purposes of paragraph (b) of the definition of "Part 2 fuel supplier" in section 1 of the Act, the following are prescribed as Part 2 fuel suppliers:

- (a) a person who, for the person's own use, manufactures Part 2 fuel in British Columbia;
- (b) a person who, for the person's own use, brings Part 2 fuel into British Columbia;
- (c) a person who, for the person's own use, receives Part 2 fuel brought into British Columbia on that person's behalf.

- (2) Subsection (1) (b) does not apply to a person who brings Part 2 fuel into British Columbia in the fuel tank of the vehicle the person is driving or in a

fuel tank for a device necessary for the intended use of that vehicle, if the fuel is used only to power that vehicle or device, as applicable.

Part 3 fuel supplier

4.1 (1) For the purposes of paragraph (b) of the definition of "Part 3 fuel supplier" in section 1 of the Act, the following are prescribed as Part 3 fuel suppliers:

(a) a person who, for the person's own use, manufactures Part 3 fuel in British Columbia;

(b) a person who, for the person's own use, brings Part 3 fuel into British Columbia;

(c) a person who, for the person's own use, receives Part 3 fuel brought into British Columbia on that person's behalf.

(2) Subsection (1) (b) does not apply to a person who brings Part 3 fuel into British Columbia in the fuel tank of the vehicle or vessel the person is driving or operating or in a fuel tank for a device necessary for the intended use of that vehicle, if the fuel is used only to power that vehicle or device, as applicable.

[en. B.C. Reg. 320/2009, s. 4.]

Renewable fuel

5 (1) Gasoline produced from biomass is prescribed as renewable fuel in relation to gasoline class fuel.

(2) The following substances are prescribed as renewable fuel in relation to diesel class fuel:

(a) diesel fuel produced from biomass;

(b) hydrogenation-derived renewable diesel fuel.

[en. B.C. Reg. 335/2012, Sch. 1, s. 3.]

Repealed

5.1 Repealed. [B.C. Reg. 335/2012, Sch. 1, s. 3.]

Exclusions from "supply"

6 (1) The definition of "supply" in section 1 of the Act does not apply in relation to Part 2 fuel in the following circumstances:

(a) the Part 2 fuel supplier, at the time of sale, reasonably expects that the Part 2 fuel will be exported from British Columbia;

(b) the Part 2 fuel is sold by one Part 2 fuel supplier to another Part 2 fuel supplier and the purchasing Part 2 fuel supplier agrees

in writing with the selling Part 2 fuel supplier to include for the applicable compliance period that Part 2 fuel in its calculations for the purposes of section 2 of the Act;

(c) the Part 2 fuel is sold by its importer or manufacturer to a Part 2 fuel supplier and the Part 2 fuel supplier agrees in writing with the importer or manufacturer, as applicable, to include for the applicable compliance period that Part 2 fuel in its calculations for the purposes of section 2 of the Act.

(2) Repealed. [B.C. Reg. 338/2010, Sch. s. 1 (b).]

(3) The sale of Part 2 fuel by a Part 2 fuel supplier that purchased the Part 2 fuel in circumstances described in subsection (1) (b) or (c) is deemed to be the first sale of that fuel after it is manufactured or brought into British Columbia.

[am. B.C. Regs. 320/2009, s. 5; 338/2010, Sch. s. 1.]

Exclusions from "supply" — Part 3 fuels

6.1 (1) The definition of "supply" in section 1 of the Act does not apply in relation to a Part 3 fuel in the following circumstances:

(a) the Part 3 fuel supplier, at the time of sale, reasonably expects that the Part 3 fuel will be exported from British Columbia;

(b) the Part 3 fuel is sold by one Part 3 fuel supplier to another Part 3 fuel supplier and the purchasing Part 3 fuel supplier agrees in writing with the selling Part 3 fuel supplier to include for the applicable compliance period that Part 3 fuel in its calculations for the purposes of section 6 (1) of the Act;

(c) the Part 3 fuel is sold by its importer or manufacturer to a Part 3 fuel supplier and the Part 3 fuel supplier agrees in writing with the importer or manufacturer, as applicable, to include for the applicable compliance period that Part 3 fuel in its calculations for the purposes of section 6 (1) of the Act.

(2) Repealed. [B.C. Reg. 338/2010, Sch. s. 2 (b).]

(3) The sale of Part 3 fuel by a Part 3 fuel supplier that purchased the Part 3 fuel in circumstances described in subsection (1) (b) or (c) is deemed to be the first sale of that fuel after it is manufactured or brought into British Columbia.

[en. B.C. Reg. 320/2009, s. 6; am. B.C. Reg. 338/2010, Sch. s. 2.]

Part 2 — Requirements in Relation to Renewable Fuels

Requirements for renewable fuel content

- 7** (1) A Part 2 fuel supplier must ensure that the volume of diesel class fuel it supplies in a compliance period contains at least 4% renewable fuel content by volume.
- (2) A Part 2 fuel supplier must ensure that the volume of gasoline class fuel it supplies in a compliance period contains at least 5% renewable fuel content by volume.
- (3) For the purposes of subsections (1) and (2), the percentage of renewable fuel by volume must be calculated using the following formula:

$$\frac{(\text{RF}_{\text{supplied}} - \text{RF}_{\text{transferred out}} + \text{RF}_{\text{transferred in}} - \text{RF}_{\text{retained}} + \text{RF}_{\text{credit}} + \text{RF}_{\text{deferred}} - \text{RF}_{\text{added}})}{\text{F}_{\text{supplied}}} \times 100$$

where

- $\text{RF}_{\text{supplied}}$ = the volume of renewable fuel supplied by the Part 2 fuel supplier in the compliance period;
- $\text{RF}_{\text{transferred out}}$ = the volume of renewable fuel notionally transferred by the fuel supplier under section 5 (1) (a) of the Act for the compliance period;
- $\text{RF}_{\text{transferred in}}$ = the volume of renewable fuel notionally transferred to the fuel supplier under section 5 (1) (b) of the Act for the compliance period;
- $\text{RF}_{\text{retained}}$ = the volume of renewable fuel retained by the fuel supplier under section 5 (3) (a) of the Act for the compliance period;
- $\text{RF}_{\text{credit}}$ = the volume of renewable fuel credited by the fuel supplier under section 5 (3) (b) of the Act for the compliance period;
- $\text{RF}_{\text{deferred}}$ = the volume of renewable fuel deferred by the fuel supplier under section 5 (4) (a) of the Act for the compliance period;
- RF_{added} = the volume of renewable fuel added by the fuel supplier under section 5 (4) (b) of the Act for the compliance period;
- $\text{F}_{\text{supplied}}$ = the volume of Part 2 fuel supplied by the Part 2 fuel supplier in the compliance period.

[am. B.C. Regs. 320/2009, s. 7; 338/2010, Sch. s. 3; 379/2010; 232/2011, s. 1; 335/2012, Sch. 1, s. 4 and Sch. 2, s. 1.]

Retaining, deferring and transferring renewable fuel obligations

- 7.1** (1) Each Part 2 fuel supplier that is a party to a notional transfer of renewable fuel under section 5 (1) of the Act must ensure the transfer occurs in a manner that ensures accurate records are kept of the matters that must be reported under section 9 (4) of this regulation in respect of the transfer.
- (2) For the purposes of section 5 (3) (a) of the Act, 5% of the Part 2 fuel supplier's renewable fuel obligation in respect of each of gasoline class fuel

and diesel class fuel for the compliance period is prescribed as the amount that may be notionally retained and applied towards that Part 2 fuel supplier's renewable fuel obligation in respect of gasoline class fuel or diesel fuel, as applicable, for the next compliance period.

- (3) For the purposes of section 5 (4) (a) of the Act, 5% of the Part 2 fuel supplier's renewable fuel obligation in respect of each of gasoline class fuel or diesel class fuel for the compliance period is prescribed as the amount that may be deferred and added to that Part 2 fuel supplier's renewable fuel obligation in respect of gasoline class fuel or diesel class fuel, as applicable, for the next compliance period.

- (4) Repealed. [B.C. Reg. 335/2012, Sch. 1, s. 5.]

[en. B.C. Reg. 338/2010, Sch. s. 4; am. B.C. Reg. 335/2012, Sch. 1, s. 5.]

Exemption from "Part 2 fuel supplier"

- 7.2** (1) A person who would otherwise be a Part 2 fuel supplier for a compliance period is not considered to be a Part 2 fuel supplier for the compliance period if

(a) the person supplies not more than 75 million litres of Part 2 fuels in the compliance period, and

(b) instead of completing a Part 2 compliance report for that compliance period, the person submits a report to the director on or before the date on which a Part 2 compliance report would be due for that compliance period, which report

(i) sets out

(A) as applicable, the person's identifying and contact information as described in section 9 (3),

(B) the compliance period to which the report relates,

(C) the volume of Part 2 fuel supplied by the person in that compliance period, and

(D) that the person elects not to be considered a Part 2 fuel supplier for that compliance period, and

(ii) includes the signature of the officer or employee submitting the report on behalf of the Part 2 fuel supplier and a declaration of that officer or employee containing

(A) a statement that the records evidencing the volume of Part 2 fuel supplied in the compliance period are available on request, and

(B) the statements described in section 9 (5) (c) and (d).

- (2) Section 9 (6) (a) applies for the purposes of evidencing the volume of Part 2

fuel reported under subsection (1) (b) (i) (C).

- (3) A person that, under this section, is not considered to be a Part 2 fuel supplier for a compliance period must maintain at its principal place of business in British Columbia, if any, or the place of business of its attorney, otherwise, books of accounts and the records referred to in subsection (1) (b) (ii) (A) for a period of 7 years after the end of that compliance period.

[en. B.C. Reg. 338/2010, Sch. s. 5; am. B.C. Regs. 232/2011, s. 2; 335/2012, Sch. 1, s. 6.]

Application to be a Part 2 fuel supplier

7.21 An application for the purposes of section 4 (1) of the Act must include all the following:

- (a) legal name and business addresses of the applicant;
- (b) nature of the applicant's business;
- (c) names of the owners or, if the applicant is a corporation, the names and addresses of the directors;
- (d) a description of the business activities in respect of which the applicant wishes to be designated as a Part 2 fuel supplier;
- (e) other information requested by the director.

[en. B.C. Reg. 335/2012, Sch. 1, s. 7.]

Renewable fuel labelling requirements

7.3 (1) A person that provides to a purchaser

- (a) gasoline class fuel that contains more than 10% ethanol, or
- (b) diesel class fuel that contains more than 5% biodiesel

must comply with subsection (2).

(2) In the circumstances described in subsection (1), the person must

- (a) if fuel is provided from fuel dispensing equipment that displays the volume of fuel dispensed and the price of that fuel, post a label on the fuel dispensing equipment in accordance with subsection (3), and
- (b) if fuel is provided from fuel dispensing equipment that does not display the volume or price of the fuel dispensed, give notice in accordance with subsection (4).

(3) A label for the purposes of subsection (2) (a) must

- (a) be placed on the fuel dispensing equipment near where the fuel volume and price are displayed so that the label is visible to a

person to whom the volume and price are visible,

(b) be in good condition and resistant to automotive fuel, oil, grease, solvents, detergents and water,

(c) be able to withstand extremes of weather for at least one year,

(d) measure not less than 7.5 cm in width and 6.5 cm in height,

(e) be divided horizontally into 2 bands,

(i) the top band of which must be not less than 2.5 cm in height and have a black background with coloured print that is

(A) not less than 18 point Helvetica bold or Arial bold font,

(B) not less than 0.3 cm from the edges, and

(C) centered horizontally and vertically within the band, and

(ii) the bottom band of which must be not less than 4 cm in height and have a coloured background with black print that is

(A) not less than 14 point Helvetica bold or Arial bold font,

(B) not less than 0.3 cm from the edges, and

(C) centered horizontally and vertically within the band,

(f) in the case of a label respecting biodiesel content, use non-fade Blue: PMS 277 ink for the print in the top band and the background in the bottom band,

(g) in the case of a label respecting ethanol content, use non-fade Orange: PMS 1495 ink for the print in the top band and the background in the bottom band, and

(h) set out the range of biodiesel or ethanol, as applicable, contained in the fuel using words or phrases approved by the director.

- (4) In the circumstances described in subsection (2) (b), the person must provide to the purchaser an invoice, bill of lading, shipping paper or other document that has clearly set out on it the type and range of renewable fuel contained in the fuel provided.

[en. B.C. Reg. 338/2010, Sch. s. 6; am. B.C. Reg. 335/2012, Sch. 1, s. 8.]

Compliance period

- 8 The compliance period for the purposes of section 2 of the Act is the calendar year.

Part 2 compliance reports

- 9 (1) In this section, "**attorney**" and "**head office**" have the same meanings as in the *Business Corporations Act*.
- (2) A Part 2 compliance report must be provided to the director on or before March 31 of the calendar year following the compliance period.
- (3) A Part 2 compliance report must set out, as applicable, all the following identifying and contact information respecting the Part 2 fuel supplier:
- (a) legal name;
 - (b) operating name;
 - (c) name of the officer or employee submitting the report on behalf of the Part 2 fuel supplier;
 - (d) address of the head office in British Columbia, if applicable, and otherwise, the name and address of the corporation's attorney in British Columbia, including, as applicable, street address, postal address, city and postal code;
 - (e) telephone and fax numbers;
 - (f) email address.
- (4) A Part 2 compliance report must set out, as applicable, all the following information in relation to the Part 2 fuel supplier for the compliance period set out under paragraph (a):
- (a) the compliance period to which the report relates;
 - (b) the volume of renewable fuel supplied;
 - (c) the volume of renewable fuel notionally transferred to the Part 2 fuel supplier under section 5 (1) of the Act;
 - (d) for each Part 2 fuel supplier from which the Part 2 fuel supplier received a notional transfer of renewable fuel,
 - (i) the legal name and address of that Part 2 fuel supplier, and
 - (ii) the volume of renewable fuel notionally transferred;
 - (e) the volume of renewable fuel notionally transferred by the Part 2 fuel supplier under section 5 (1) of the Act;
 - (f) for each Part 2 fuel supplier to which the Part 2 fuel supplier notionally transferred Part 2 fuel,
 - (i) the legal name and address of that Part 2 fuel supplier,

and

(ii) the volume of renewable fuel notionally transferred;

(g) the volume of Part 2 fuel supplied in the compliance period;

(h) a record and the result of the calculation under section 7 (3) *[requirements for renewable fuel content]*;

(i) the volume of the Part 2 fuel supplier's renewable fuel obligation the Part 2 fuel supplier is deferring for the compliance period under section 7.1 (3);

(j) the volume of renewable fuel the Part 2 fuel supplier is adding to its renewable fuel obligation for the compliance period from deferrals under section 7.1 (3) in previous compliance periods;

(k) the volume of renewable fuel the Part 2 fuel supplier supplied in the compliance period the Part 2 fuel supplier is retaining under section 7.1 (2) for credit in the next compliance period;

(l) the volume of renewable fuel the Part 2 fuel supplier is applying to its renewable fuel obligation for the compliance period from the previous compliance period.

(5) A Part 2 compliance report must be signed by the officer or employee referred to in subsection (3) (c) and include a declaration of that officer or employee containing, as applicable, all the following:

(a) a statement that records evidencing the renewable nature of all renewable fuel supplied in the compliance period are available on request;

(b) a statement that records evidencing each matter reported under subsection (4) (b) to (g) are available on request;

(c) if the report is submitted by an employee, a statement that a record evidencing the employee's authority to submit the report on behalf of the Part 2 fuel supplier is available on request;

(d) the following statement:

I certify that the information in this report is true and complete to the best of my knowledge and I understand that I may be required to provide to the director records evidencing the truth of that information.

(6) For the purposes of subsection (5), records evidencing a matter include, but are not limited to, the following types of records:

(a) dated bills of lading, invoices, sales receipts, records of payments, records of metered values and records of transactions for the volume of each class of Part 2 fuels reported under

subsection (4) as supplied in a compliance period;

(b) dated contracts, records of transfer, invoices and records of payments for volumes of renewable fuel notionally transferred to or by the Part 2 fuel supplier in the compliance period.

(7) A Part 2 compliance report must be in the form specified by the director.

[am. B.C. Regs. 338/2010, Sch. s. 7; 335/2012, Sch. 1, s. 9 and Sch. 2, s. 2.]

Supplementary Part 2 compliance report

10 A supplementary compliance report referred to in section 3 (3) of the Act must

(a) comply with section 9 [*Part 2 compliance reports*] of this regulation, and

(b) indicate which information is different from the information provided in the Part 2 compliance report it supplements.

Records

11 (1) A Part 2 fuel supplier must retain at its principal place of business in British Columbia, if any, or the place of business of its attorney, otherwise, books of accounts and the records necessary for the fuel supplier to demonstrate compliance with section 2 of the Act for a compliance period.

(2) Records referred to in subsection (1) must be retained for 7 years after the end of the compliance period to which they relate.

Part 2.1 — Requirements in Relation to Carbon Intensity of Fuels

Compliance periods

11.01 (1) Subject to subsection (2), the compliance period for the purposes of section 6 of the Act is the calendar year.

(2) In 2012 to 2014, the compliance periods for the purposes of section 6 of the Act are the following:

(a) January 1, 2012 to June 30, 2013;

(b) July 1, 2013 to December 31, 2014.

[en. B.C. Reg. 232/2011, s. 3.]

Low carbon fuel requirement

11.02 (1) For the purposes of the formula set out in section 6 (4) of the Act, for a compliance period set out in Column 1 of Table 1,

- (a) the carbon intensity limit for gasoline class fuel is the limit set out in Column 2 opposite the compliance period, and
- (b) the carbon intensity limit for diesel class fuel is the limit set out in Column 3 opposite the compliance period.

Table 1		
COLUMN 1 Compliance Period	COLUMN 2 Carbon Intensity Limit for Gasoline Class Fuel	COLUMN 3 Carbon Intensity Limit for Diesel Class Fuel
	(g CO₂e/MJ)	(g CO₂e/MJ)
July 1, 2013 to December 31, 2014	86.20	92.38
2015	85.11	91.21
2016	84.23	90.28
2017	82.93	88.87
2018	81.62	87.47
2019	80.31	86.07
2020 and subsequent compliance periods	78.56	84.20

(2) For the purposes of the formula set out in section 6 (4) of the Act,

- (a) the energy effectiveness ratio for a diesel class fuel set out in Column 1 of Table 2 is the ratio set out in Column 2 opposite the fuel, and
- (b) the energy effectiveness ratio for a gasoline class fuel set out in Column 1 of Table 2 is the ratio set out in Column 3 opposite the fuel.

Table 2		
COLUMN 1 Fuel	COLUMN 2 Diesel Class Fuel Energy Effectiveness Ratio	COLUMN 3 Gasoline Class Fuel Energy Effectiveness Ratio
Petroleum-based diesel or renewable fuel in relation to diesel class fuel	1.0	Not applicable
Petroleum-based gasoline or renewable fuel in relation to gasoline class fuel	Not applicable	1.0
Hydrogen	1.9	2.5
LNG	1.0	Not applicable
CNG	0.9	1.0
Propane	1.0	1.0

Electricity	2.7	3.4
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- (3) For the purposes of the formula in section 6 (4) of the Act, for a fuel set out in Column 1 of Table 3, the energy content of the fuel is the energy density, set out in Column 2 opposite that fuel, multiplied by the quantity of that fuel supplied by the Part 3 fuel supplier in the applicable compliance period.

Table 3	
COLUMN 1	COLUMN 2
Fuel	Energy Density/Unit
Petroleum-based diesel and diesel produced from biomass	38.65 MJ/L
Hydrogenation-derived renewable diesel fuel	36.51 MJ/L
Biodiesel	36.94 MJ/L
Petroleum-based gasoline and gasoline produced from biomass	34.69 MJ/L
Ethanol	23.58 MJ/L
Hydrogen	120.00 MJ/kg
LNG	52.87 MJ/kg
CNG	38.26 MJ/m ³
Propane	25.59 MJ/L
Electricity	3.60 MJ/kWh

- (4) For the purposes of the formula in section 6 (4) of the Act,
- (a) the carbon intensity for petroleum-based diesel is 93.55 g CO₂e/MJ,
 - (b) the carbon intensity for petroleum-based gasoline is 87.29 g CO₂e/MJ,
 - (c) default carbon intensities referred to in section 6 (5) (d) (i) of the Act are set out in section 11.04 of this regulation,
 - (d) the calculation referred to in section 6 (5) (d) (ii) (A) of the Act is described in section 11.06, of this regulation, and
 - (e) the procedure for proposing an alternative method referred to in section 6 (5) (d) (ii) (B) of the Act is set out in section 11.07 of this regulation.

[en. B.C. Reg.335/2012, Sch. 1, s. 10.]

Repealed

11.021 Repealed. [B.C. Reg. 335/2012, Sch. 1, s. 11.]

Exemption from "Part 3 fuel supplier"

11.022 (1) A person who would otherwise be a Part 3 fuel supplier for a compliance period is not considered to be a Part 3 fuel supplier for the compliance period if

(a) for

(i) the compliance period from July 1, 2013 to December 31, 2014, the person supplies Part 2 fuels but not more than 112.5 million litres of Part 2 fuels, and

(ii) the 2015 compliance period and any compliance period after that, the person supplies Part 2 fuels but not more than 75 million litres of Part 2 fuels, and

(b) instead of completing a Part 3 compliance report for that compliance period, the person submits a report to the director on or before the date on which a Part 3 compliance report would be due for that compliance period, which report

(i) sets out

(A) the person's identifying and contact information, as applicable, as described in section 11.08 (3),

(B) the compliance period to which the report relates,

(C) the volume of Part 2 fuel supplied by the person in that compliance period, and

(D) that the person elects not to be considered a Part 3 fuel supplier for that compliance period, and

(ii) includes the signature of the officer or employee submitting the report on behalf of the Part 3 fuel supplier and a declaration of that officer or employee containing

(A) a statement that the records evidencing the volume of Part 2 fuel supplied in the compliance period are available on request, and

(B) the statements described in section 11.08 (7) (c) and (d).

(2) Section 9 (6) (a) applies for the purposes of evidencing the volume of Part 2 fuel reported under subsection (1) (b) (i) (C) of this section.

(3) A person that, under this section, is not considered to be a Part 3 fuel supplier for a compliance period must maintain at its principal place of business in British Columbia, if any, or the place of business of its attorney, otherwise, books of accounts and the records referred to in subsection (1) (b) (ii) (A) for a period of 7 years after the end of that compliance period.

Application to be a Part 3 fuel supplier

11.023 An application for the purposes of section 7.1 (1) of the Act must include all the following:

- (a) legal name and business addresses of the applicant;
- (b) nature of the applicant's business;
- (c) names of the owners or, if the applicant is a corporation, the names and addresses of the directors;
- (d) a description of the business activities in respect of which the applicant wishes to be designated as a Part 3 fuel supplier;
- (e) other information requested by the director.

[en. B.C. Reg. 335/2012, Sch. 1, s. 11.]

Repealed

11.03 Repealed. [B.C. Reg. 335/2012, Sch. 1, s. 11.]

Default carbon intensity

11.04 For the purposes of section 6 (5) (d) (i) of the Act, the carbon intensity for a Part 3 fuel set out in Column 1 of the Table to this section is deemed to be the carbon intensity set out in Column 2 opposite the fuel.

Table	
COLUMN 1	COLUMN 2
Fuel	Carbon Intensity (g/MJ)
Renewable fuel in relation to diesel class fuel	93.55
Propane	75.35
Renewable fuel in relation to gasoline class fuel	87.29
CNG	62.14
LNG	63.26
Electricity	11.00
Hydrogen	95.51

[en. B.C. Reg. 335/2012, Sch. 1, s. 11.]

Components

11.05 (1) In this section:

"fuel production facility" means a facility that manufactures or produces fuel from feedstock or using natural resources;

"fuelling station" means a facility equipped to dispense fuel into fuel

tanks or batteries of vehicles or vessels and includes a retail service station, a card lock, or a facility used primarily to fuel a fleet of vehicles or vessels;

"net greenhouse gas emissions" , used in relation to a stage in the life cycle of a fuel, includes all greenhouse gases emitted or absorbed in any process or activity that is part of that stage, whether or not the process or activity is specifically mentioned in the description of the stage in subsection (3), unless those greenhouse gases are specifically taken into account in another stage.

- (2) For the purpose of determining the carbon intensity of a fuel, the net greenhouse gas emissions from each stage, as described in subsection (3), that occurs in the life cycle of the fuel, is established as a component deemed attributable to that fuel.
- (3) For the purposes of subsection (2), the following stages of the life cycle of a fuel are established:

"carbon dioxide and hydrogen sulphide removed from natural gas" means the activities and processes associated with removing carbon dioxide and hydrogen sulphide from natural gas;

"carbon from air incorporated in fuel" means the processes by which carbon is incorporated in biological feedstock in the feedstock production process;

"co-products production" means the production of usable products, other than the fuel being analyzed, in a fuel production process, whether the co-product is produced at the point of feedstock recovery or at the fuel production facility;

"direct land use change" means the activities and processes associated with changing the use of land from another use to

- (a) feedstock production and recovery,
- (b) fuel production,
- (c) roads for access to feedstock or an energy source,
- (d) feedstock exploration activities, or
- (e) pipelines, transmission lines or other means of transporting feedstock or fuel;

"feedstock production and recovery" means activities and processes associated with producing and recovering feedstock, including, without limitation, processing, handling and storage that occurs before transporting the feedstock to a fuel production facility;

"feedstock transport" means activities and processes associated with transporting feedstock from the location of production or recovery to a fuel production facility, including, without limitation, the manufacture and maintenance of vehicles, vessels and pipelines used for transporting and leaks and spills that occur in the process of transferring the feedstock to a means of transportation;

"fertilizer and pesticide manufacture" means activities and processes associated with the use of fertilizers and pesticides for agricultural feedstock, including, without limitation, recovering and transporting raw materials and manufacturing, transporting and using fertilizers and pesticides;

"fuel dispensing" means activities and processes associated with the transfer of fuel from storage at a fuelling station into a vehicle or vessel for use in the engine of that vehicle or vessel or a device necessary for the intended use of the vehicle or vessel, including, without limitation, leaks and spills that occur in the transfer process;

"fuel production" means activities and processes associated with manufacturing or producing fuel at a fuel production facility, including, without limitation, fugitive emissions, flaring and leaks of substances during the fuel production process;

"fuel storage and distribution" means activities and processes associated with storing, handling and transporting fuel from the fuel production facility to and at the fuelling station;

"leaks and flaring" means fugitive emissions, leaks and flaring of substances during feedstock production and recovery;

"vehicle or vessel operation" means the consumption of fuel in the operation of vehicles and vessels, including, without limitation, in the operation of any device necessary to the intended operation or use of the vehicle or vessel.

[en. B.C. Reg. 320/2009, s. 8.]

Carbon intensity by component — calculation

11.06 (1) In this section, **"approved GHGenius"** means a version of GHGenius approved by the director for the applicable compliance period.

(2) For the purposes of section 6 (5) (d) (ii) (A) of the Act, the carbon intensities for the components must be calculated using an approved GHGenius.

[en. B.C. Reg. 320/2009, s. 8; am. B.C. Reg. 335/2012, Sch. 1, s. 12.]

Carbon intensity by component — alternative method

11.07 (1) For the purposes of section 6 (5) (d) (ii) (B) of the Act, a person may apply to the director for approval of an alternative method by submitting a proposal in writing so that it is received by the director on or before the end of the compliance period for which approval of the alternative method is requested.

(2) A proposal under subsection (1) must include the following information:

- (a) legal name;
- (b) operating name;
- (c) name of the person submitting the proposal on behalf of the applicant;
- (d) the address of the applicant, including, as applicable, street address, postal address, city and postal code;
- (e) telephone and fax numbers;
- (f) name and contact information for a person who can be contacted for additional information;
- (g) the alternative method proposed for determining the carbon intensity of a component and an explanation of the basis on which the applicant asserts that the alternative method results in a more accurate determination of the carbon intensity for the component than is determined under section 11.06 for that component;
- (h) any other information the applicant considers relevant to the application.

(3) An applicant must provide further information in respect of an application under this section on request of the director.

(4) A proposal under subsection (1) and further information provided under subsection (3) must be signed by the officer or employee referred to in subsection (2) (c) and include the following statement:

I certify that the information in this proposal is true and complete to the best of my knowledge and I understand that I may be required to provide to the director records evidencing the truth of that information.

(5) For the purposes of subsection (4), records evidencing a matter include, but are not limited to, scientifically defensible materials, including refereed journals.

(6) The director must provide an applicant under subsection (1) with an opportunity to be heard before deciding to refuse to accept the alternative method.

- (7) An opportunity to be heard for the purposes of subsection (6) may be provided, as the director considers appropriate in the circumstances,
- (a) in person,
 - (b) in writing, including by facsimile transmission or electronic mail, or
 - (c) by video conference, audio conference, telephone or other electronic means, if available.
- (8) The director must include written reasons with a decision referred to in section 6 (7) of the Act.

[en. B.C. Reg. 320/2009, s. 8; am. B.C. Regs. 232/2011, s. 6; 335/2012, Sch. 1, s. 13.]

Part 3 compliance reports

11.08 (1) In this section, "**attorney**" and "**head office**" have the same meanings as in the *Business Corporations Act*.

- (2) Subject to subsection (2.1), a Part 3 compliance report must be provided to the director on or before March 31 of the calendar year following the compliance period.
- (2.1) A Part 3 compliance report for the January 1, 2012 to June 30, 2013 compliance period must be provided to the director on or before September 31, 2013.
- (3) A Part 3 compliance report must set out, as applicable, all the following identifying and contact information respecting the Part 3 fuel supplier:
- (a) legal name;
 - (b) operating name;
 - (c) name of the officer or employee submitting the report on behalf of the Part 3 fuel supplier;
 - (d) the address of the head office in British Columbia, if applicable, and otherwise, the name and address of the corporation's attorney in British Columbia, including, as applicable, street address, postal address, city and postal code;
 - (e) telephone and fax numbers;
 - (f) email address.
- (4) A Part 3 compliance report must set out, as applicable, all the following information in relation to the Part 3 fuel supplier for the compliance period set out under paragraph (a):
- (a) the compliance period to which the report relates;

(b) the quantity of each Part 3 fuel supplied in the compliance period and included in the calculation under section 6 (4) of the Act;

(c) the carbon intensity determined for each Part 3 fuel reported under paragraph (b), showing how carbon intensities were determined;

(c.1) if the Part 3 fuel supplier determined the carbon intensity of a Part 3 fuel using the method referred to in section 11.06, a record of inputs to an approved GHGenius, as defined in section 11.06 (1), and any additional information necessary to reproduce, using the approved GHGenius, the result submitted;

(c.2) if the Part 3 fuel supplier determined the carbon intensity of a Part 3 fuel using the method referred to in section 11.07, a copy of the director's approval of an alternative method and, if the alternative method uses a spreadsheet model designed for the same purposes as GHGenius or uses another electronic method of calculating carbon intensity, a record of inputs to the spreadsheets for that alternative method or to the electronic calculation, as applicable;

(d) the quantity and expected use of each Part 3 fuel that

(i) was supplied by the Part 3 fuel supplier in the compliance period, and

(ii) is excluded under section 6 (3) of the Act from the calculation under section 6 (4) of the Act;

(e) for each Part 3 fuel supplier, in this paragraph called the "transferring Part 3 fuel supplier", from which the Part 3 fuel supplier acquired debits or validated credits,

(i) the legal name and address of the transferring Part 3 fuel supplier, and

(ii) the number of debits or validated credits acquired from the transferring Part 3 fuel supplier;

(f) for each Part 3 fuel supplier, in this paragraph called the "acquiring Part 3 fuel supplier" to which the Part 3 fuel supplier transferred debits or validated credits,

(i) the legal name and address of the acquiring Part 3 fuel supplier, and

(ii) the number of debits or validated credits transferred to the acquiring Part 3 fuel supplier.

(g) to (i) Repealed. [B.C. Reg. 335/2012, Sch. 1, s. 14 (b).]

- (5) A Part 3 fuel supplier must provide other information in respect of the Part 3 fuel supplier and the compliance period on request of the director.
- (6) Repealed. [B.C. Reg. 335/2012, Sch. 1, s. 15.]
- (7) A Part 3 compliance report must be signed by the officer or employee referred to in subsection (3) (c) and include a declaration of that officer or employee containing, as applicable, all the following:
- (a) a statement that records evidencing the carbon intensity of all Part 3 fuel reported under subsection (4) (b) are available on request;
 - (b) a statement that records evidencing each matter reported under subsection (4) (b) to (f) are available on request;
 - (c) if the report is submitted by an employee, a statement that a record evidencing the employee's authority to submit the report on behalf of the Part 3 fuel supplier is available on request;
 - (d) the following statement:

I certify that the information in this report is true and complete to the best of my knowledge and I understand that I may be required to provide to the director records evidencing the truth of that information.
- (8) Subsection (7) (c) and (d) apply in respect of further information provided under subsection (5).
- (9) For the purposes of subsections (7) and (8), records evidencing a matter include, but are not limited to, the following types of records:
- (a) dated metered-values, bills of lading, invoices, sales receipts, records of payments and records of transactions for the quantity of each Part 3 fuel reported under subsection (4) as supplied in a compliance period;
 - (b) dated contracts, including, without limitation, Part 3 agreements, records of transfer, invoices and records of payments for the debits and validated credits transferred to or by the Part 3 fuel supplier in the compliance period.
- (10) A Part 3 compliance report must be in the form specified by the director.

[en. B.C. Reg. 320/2009, s. 8, am. B.C. Regs. 338/2010, Sch. s. 12; 232/2011, s. 7; 335/2012, Sch. 1, ss. 14 to 16.]

Supplementary Part 3 compliance report

- 11.09** A supplementary compliance report referred to in section 7 (3) of the Act must

- (a) comply with section 11.08 [*compliance reports*], and
- (b) indicate which information is different from the information provided in the Part 3 compliance report it supplements.

[en. B.C. Reg. 320/2009, s. 8.]

Records

11.10 (1) A Part 3 fuel supplier must retain at its principal place of business in British Columbia, if any, or the place of business of its attorney, otherwise, books of accounts and the records necessary for the fuel supplier to demonstrate compliance with section 6 of the Act for a compliance period.

- (2) Records referred to in subsection (1) must be retained for 7 years after the end of the compliance period to which they relate.

[en. B.C. Reg. 320/2009, s. 8.]

Part 3 — Administrative Penalties

Prescribed contraventions

12 For the purposes of section 12 (1) [*administrative penalties in relation to other matters*] of the Act, the following contraventions are prescribed:

- (a) a failure to provide a Part 2 fuel compliance report by the date it is due;
- (b) a failure to retain records as required under section 11 (1) or (2) [*records*] of this regulation;
- (c) a failure to provide a Part 3 fuel compliance report by the date it is due;
- (d) a failure to retain records as required under section 11.10 (1) or (2) of this regulation;
- (e) a failure to post a label in the circumstances required under section 7.3 (1) [*renewable fuel labelling requirements*];
- (f) a failure to give notice in the circumstances required under section 7.3 (1);
- (g) posting a label that does not meet the requirements of section 7.3 (3) (a), (b), (c), (d), (e), (f), (g) or (h);
- (h) providing notice that does not meet the requirements of section 7.3 (4);
- (i) a failure to pay an administrative penalty when it is due under section 9 (2), 10 (2) or 11 (5) of the Act or under section 18 (2) of

this regulation, as applicable.

[am. B.C. Regs. 320/2009, s. 9; 338/2010, Sch. ss. 13 to 15.]

Amount of administrative penalties

13 (1) For the purposes of sections 9 (1) [*automatic administrative penalties*] and 11 (2) [*imposed administrative penalties: fuel requirements*] of the Act, the penalty rate is

(a) \$0.30/litre for gasoline class fuel, and

(b) \$0.45/litre for diesel class fuel.

(1.1) For the purposes of sections 10 (1) and 11 (4) of the Act, the penalty rate is \$200.

(2) The maximum amount of an administrative penalty that may be imposed

(a) for a failure to provide a fuel compliance report on the date it is due is \$100 000, and

(b) is \$500 for

(i) a failure to retain records as required under section 11 (1) or (2) or 11.10 (1) or (2) [*records*],

(ii) a failure to post a label in the circumstances required under section 7.3 (1) [*renewable fuel labelling requirements*],

(iii) a failure to give notice in the circumstances required under section 7.3 (1),

(iv) posting a label that does not meet the requirements of section 7.3 (3) (a), (b), (c), (d), (e), (f), (g) or (h), or

(v) providing a notice under section 7.3 (2) (b) that does not meet the requirements of section 7.3 (4).

(3) If all or a portion of an administrative penalty is not paid when it is due, an additional penalty of up to 10% of the outstanding balance may be imposed for each 14-day period it remains unpaid.

[am. B.C. Regs. 320/2009, s. 10; 338/2010, Sch. ss.16 to 18; 335/2012, Sch. 1, s. 17.]

Notice of intention to impose administrative penalty

14 (1) Before sending an administrative penalty notice to a fuel supplier under section 11 (2) or 12 (2) or (4) of the Act, the director must

(a) serve the person with a notice of intent to impose an administrative penalty, and

(b) provide the fuel supplier with an opportunity to be heard.

- (2) An opportunity to be heard for the purposes of this section may be provided, as the director considers appropriate in the circumstances,
- (a) in person,
 - (b) in writing, including by facsimile transmission or electronic mail, or
 - (c) by video conference, audio conference, telephone or other electronic means, if available.
- (3) A notice of intent to impose an administrative penalty must set out
- (a) the alleged non-compliance, including the provision of the Act or regulations the person is alleged to have contravened and the circumstances of that non-compliance, and
 - (b) the time, date, place and manner of hearing or the due date for written submissions.
- (4) A notice of intent to impose an administrative penalty must be served on the person not less than 21 days before the date of a hearing under subsection (2) (a) or (c) or the due date of a submission under subsection (2) (b).
- (5) On application, the director may change a time, date or manner of hearing specified under subsection (3) (b).

[am. B.C. Regs. 320/2009, s. 11; 338/2010, Sch. s. 19.]

Consequences of failing to appear or provide submissions

- 15** If a person who is served with notice under section 14 (1) of this regulation fails to appear or provide submissions when required by the notice or under section 14 (5) of this regulation, as applicable, the director may proceed without further notice to serve the person with an administrative penalty notice under section 11 (2) or 12 (2) or (4) of the Act.

[am. B.C. Reg. 338/2010, Sch. s. 20.]

Determining the amount of an administrative penalty

- 16** (1) In determining the amount of an administrative penalty for a failure to submit a compliance report by the date it was due, the director must consider
- (a) whether the fuel supplier has previously submitted compliance reports late and how often, and
 - (b) Repealed. [B.C. Reg. 338/2010, Sch. s. 21.]
 - (c) any other matter the director considers relevant.
- (2) In determining the amount of an administrative penalty for a failure to retain

records as required under section 11 (1) or (2) or 11.10 (1) or (2) [records], the director must consider

- (a) whether the fuel supplier has previously failed to retain the proper records or has failed to retain those records for 7 years, and how often, and
 - (b) any other matter the director considers relevant.
- (3) The director must not serve an administrative penalty notice on a person who has satisfied the director that the person exercised due diligence to prevent the contravention or failure in respect of which an administrative penalty may be imposed.

[am. B.C. Regs. 320/2009, Sch. s. 12; 338/2010, Sch. s. 21.]

Notice of administrative penalty

- 17** A notice of administrative penalty for the purposes of section 11 (2) or 12 (2) or (4) of the Act must include all the following information:

- (a) the date by which the administrative penalty must be paid;
- (b) acceptable methods of payment;
- (c) the address to which the payment must be sent;
- (d) that the determination of non-compliance, the extent of the non-compliance or, in the case of an administrative penalty under section 12 of the Act, the amount of the administrative penalty, may be appealed to the Environmental Appeal Board in accordance with Part 5 of the Act and Part 4 of this regulation.

[am. B.C. Reg. 338/2010, Sch. s. 22.]

Payment of administrative monetary penalty

- 18** (1) An administrative penalty must be made payable to the Minister of Finance.
- (2) An administrative penalty under section 12 [*administrative penalties in relation to other matters*] of the Act must be paid within 30 days after the date the fuel supplier is subject to the administrative penalty in accordance with section 11(5) or 12 (3) of the Act, as applicable.

[am. B.C. Regs. 320/2009, s. 13; 338/2010, Sch. s. 23.]

Time limit for imposing administrative penalties

- 19** (1) A notice under section 14 [*notice of intention to impose administrative penalty*] must not be sent
- (a) more than 3 years after the date of the non-compliance to which it relates, or

(b) if the minister issues a certificate described in subsection (2), 18 months after the date on which the minister learned of that non-compliance.

(2) A certificate purporting to have been issued by the minister certifying the date referred to in subsection (1) (b) is proof of that date.

Publication of names

20 (1) The minister may publish, including by electronic means, all the following information in respect of a fuel supplier on whom an administrative penalty has been imposed under section 9, 11 or 12 of the Act:

(a) legal name;

(b) amount of the penalty;

(c) the provision of the Act or regulations with which the fuel supplier failed to comply.

(2) Publication under subsection (1) in relation to an administrative penalty under section 11 or 12 of the Act may not occur until the fuel supplier is subject to the administrative penalty in accordance with section 11 (5) or 12 (3) of the Act, as applicable.

[am. B.C. Reg. 320/2009, s. 14.]

Part 4 — Appeals

Time limit for commencing appeal

21 The time limit for commencing an appeal is 30 days after the notice of administrative penalty to which it relates is served.

Procedures on appeal

22 An appeal must be

(a) commenced by notice of appeal in accordance with the Environmental Appeal Board Procedure Regulation, and

(b) conducted in accordance with Part 5 [*Appeals to Environmental Appeal Board*] of the Act and the Environmental Appeal Board Procedure Regulation.

Powers of appeal board on appeal

23 (1) On an appeal, the appeal board may

(a) send the matter back to the person who made the decision

with directions,

(b) confirm, reverse or vary the decision being appealed, or

(c) make any decision that the person whose decision is appealed could have made, and that the appeal board considers appropriate in the circumstances.

(2) The appeal board may conduct an appeal by way of a new hearing.

Part 5 — Enforcement

Inspectors

24 (1) The director may

(a) designate a person as an inspector or a class of persons as inspectors, and

(b) issue identification to a person, or a person in a class, designated under paragraph (a), identifying the person as an inspector.

Inspection and seizure powers

25 (1) For the purposes of ensuring compliance with this Act or the regulations, an inspector, at any reasonable time, may enter land or premises, other than premises or a part of premises used solely as a private residence, and inspect any place, process, thing or activity that is the business premises or operations of a fuel supplier.

(2) An inspector who enters on land or premises under this section may do any of the following for the purposes referred to in subsection (1):

(a) inspect, analyze, measure, sample or test anything;

(b) use or operate anything or require the use or operation of anything, under conditions specified by the inspector;

(c) take away samples;

(d) make or take away copies of records.

(3) An inspector who enters land or premises in accordance with this section

(a) may take along the persons and equipment that the inspector considers may be necessary for the purposes of the inspection, and

(b) on request, must provide proof of identity to a person present on the land or premises entered.

- (4) Section 112 of the *Environmental Management Act* is adopted for the purposes of the Act and for that purpose
- (a) a reference in section 112 to "this Act" or to "this Act or the regulations" must be read as a reference to the Act or the Act and this regulation,
 - (b) a reference in section 112 to a director must be read as a reference to the director under the Act, and
 - (c) a reference in section 112 to an officer is to be read as a reference to an inspector.
- (5) A person who is the subject of an inspection under this section, or who is or was a director, receiver, receiver manager, officer, employee, banker, auditor or agent of a person who is the subject of an inspection under this section, on request of an inspector, must
- (a) produce, without charge or unreasonable delay, for examination by the inspector, any record relating to requirements under this Act, and
 - (b) provide the inspector with information relevant to the purposes of the inspection.

Part 6 — Transition

Repealed

26 Repealed. [B.C. Reg. 335/2012, Sch. 2, s. 3.]

Repealed

27 Repealed. [B.C. Reg. 335/2012, Sch. 1, s. 18.]

Part 3 agreements — transition

28 The director must not agree to issue more than 130 000 credits in the compliance period from July 1, 2013 to December 31, 2014.

[en. B.C. Reg. 335/2012, Sch. 1, s. 19.]

[Provisions relevant to the enactment of this regulation: *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act*, S.B.C. 2008, c. 16, sections 24 to 29]

