

Greenhouse Gas Reduction  
(Renewable and Low Carbon Fuel Requirements) Act

**RENEWABLE AND LOW CARBON FUEL  
REQUIREMENTS REGULATION**

Note: Check the Cumulative Regulation Bulletin 2015 and 2016  
for any non-consolidated amendments to this regulation that may be in effect.  
[includes amendments up to B.C. Reg. 287/2016, January 1, 2017]

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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;

"affiliate" has the same meaning as in section 1 (1) of the Business Corporations Act;

"appeal" means an appeal under section 14 (2) [what decisions may be appealed, who may appeal, process of appeal] of the Act;

"carbon intensity record" means a record required under

- (a) section 11.08 (4.1) [Part 3 compliance reports], or
  - (b) section 11.031 (1) [carbon intensity and fuel records in relation to exclusion agreements];
- "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);

"exclusion agreement" means an agreement referred to in

- (a) section 6.1 (b) or (c) [exclusions from "supply" — Part 3 fuels], or
  - (b) section 7.1 (4) [application to become Part 3 fuel supplier] of the Act;
- "exclusion report" means a report required under section 11.032 (1) in relation to an exclusion agreement;

"exemption report" means a report under

- (a) section 7.2 (1) (b) [exemption from renewable fuel content requirements], or
  - (b) section 11.022 (1) (b) [exemption from low carbon fuel requirements];
- "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;

"natural gas-based gasoline" means gasoline derived from natural gas but does not include renewable fuel;

"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 of a given mass of another greenhouse gas is the product of that mass and the global warming potential for that gas that is

- (a) set out in a report of the Intergovernmental Panel on Climate Change, and
- (b) specified by the director by reference to the report.

[am. B.C. Regs. 320/2009, s. 2; 141/2015, s. 1; 287/2016, App. 1, s. 1 and App. 2, s. 1.]

#### Standard for biodiesel fuel

2 A fuel must meet one of the following standards, as amended from time to time, to qualify as biodiesel fuel for the purposes of the Act:

- (a) the Canadian General Standards Board Standard CAN/CGSB-3.524-2011 Biodiesel (B100) for Blending in Middle Distillate Fuels;
- (b) the ASTM International Standard ASTM D6751-15cel.

[en. B.C. Reg. 190/2016, App. 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.]

#### Inclusion in "gasoline class fuel"

3.01 Natural gas-based gasoline is prescribed as an energy source for the purposes of paragraph (b) (ii) of the definition of "gasoline class fuel" in section 1 of the Act.

[en. B.C. Reg. 141/2015, s. 2.]

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

[am. B.C. Reg. 190/2016, App. 1, s. 2.]

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

[en. B.C. Reg. 320/2009, s. 4; am. B.C. Reg. 190/2016, App.1, s. 3.]

#### 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" — Part 2 fuels

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 1.1 — General Requirements

##### Requirement for complete and accurate reports and records

6.2 (1) Subject to subsection (3), a person who is required to

(a) submit a report referred to in subsection (2) to the director,

(b) provide a carbon intensity record under section 11.031 [Part 3 fuel provided under an exclusion agreement], or

(c) include a carbon intensity record in a report referred to in subsection (2)

contravenes this section if the report or record, as applicable, does not completely and accurately disclose the information required to be included in that report or record.

(2) Subsection (1) applies to the following reports:

(a) a Part 2 compliance report;

(b) a Part 3 compliance report;

(c) a supplementary report under section 3 (2) [Part 2 compliance reports] or 7 (2) [Part 3 compliance reports] of the Act;

(d) an exemption report;

(e) an exclusion report under section 11.032 (1) [exclusion reports in relation to exclusion agreements];

(f) a report under section 11.101 (1) (b) [application for validation of credits];

(g) a report under section 29 [transition — transferring debits and validated credits].

(3) Subsection (1) does not apply in relation to a carbon intensity record received by the person under section 11.031 (2) or (6) [record provided by other party to exclusion agreement or by the director].

(4) A person who is required to provide additional information under any of the following contravenes this section if the additional information provided is incomplete or inaccurate:

- (a) section 3 (4) (b) [Part 2 compliance reports] of the Act;
  - (b) section 7 (4) (b) [Part 3 compliance reports] of the Act;
  - (c) section 6.4 (1) or (2) [additional information in support of reports and records].
- [en. B.C. Reg. 287/2016, App. 1, s. 2.]

#### Fuel identification requirements

6.3 (1) Subject to subsection (2), if the director has published, on a publicly accessible website maintained by the ministry of the minister, a system for categorizing or describing fuels, the reports and records referred to in section 6.2 (1) [requirement for complete and accurate reports and records] must identify fuels in accordance with the system as it is published at the time that the report is submitted or the record provided.

(2) Subsection (1) does not apply in relation to a carbon intensity record received under section 11.031 (2) or (6) [record provided by other party to exclusion agreement or by the director] by the purchasing Part 3 fuel supplier.

[en. B.C. Reg. 287/2016, App. 1, s. 2.]

#### Additional information in support of reports and records

6.4 (1) The director may require a person who submits a report under any of the following to provide additional information in support of the report:

- (a) section 7.2 (2) (b) [exemption report for Part 2 fuel supplier];
- (b) section 11.022 (2) (b) [exemption report for Part 3 fuel supplier];
- (c) section 11.032 (1) [reports in relation to exclusion agreements];
- (d) section 11.101 (1) (b) [application for validation of credits];
- (e) section 29 [transition — transferring debits and validated credits].

(2) The director may require a person who

- (a) provides a carbon intensity record under section 11.031 (5) [director may require record], or
- (b) includes a carbon intensity record in a Part 3 compliance report under section 11.08 (4.1) [record required for each Part 3 fuel reported]

to provide additional information in support of the record.

(3) A person who is required to provide additional information under subsection (1) or (2) of this section or section 3 (4) (b) [Part 2 compliance reports] or 7 (4) (b) [Part 3 compliance reports] of the Act must provide the additional information

- (a) by the date specified by the director, and
- (b) if applicable, in the manner and form specified by the director.

(4) If required by the director, a person required to provide additional information as referred to in subsection (3) must include with the additional information a signed statement of the officer or employee who is providing the additional information on behalf of the person

- (a) confirming that a record evidencing the individual's authority to provide the additional information on behalf of the person is available on request, and
- (b) containing the following statement:

I certify that the information provided is true and complete to the best of my knowledge and I understand that the director may require records evidencing the truth of the information to be provided.

(5) For the purposes of subsection (4),

(a) section 9 (6) [records evidencing a matter] applies in relation to additional information requested from a Part 2 fuel supplier or in relation to Part 2 fuel, and

(b) section 11.08 (9) [records evidencing a matter] applies in relation to additional information requested from a Part 3 fuel supplier or in relation to Part 3 fuel.

(6) A person required to provide additional information under this section must retain records necessary for the person to demonstrate compliance with the requirement as follows:  
(a) the records must be maintained at the person's principal place of business in British Columbia, if any, or the place of business of the person's attorney, otherwise;  
(b) the records must be retained for the 7 years that apply under this regulation to retention of records in relation to the report or carbon intensity record to which the additional information requirement is related.  
[en. B.C. Reg. 287/2016, App. 1, 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:

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

F supplied

where

RFsupplied = the volume of renewable fuel supplied by the Part 2 fuel supplier in the compliance period;

RFtransferred out = the volume of renewable fuel notionally transferred by the fuel supplier under section 5 (1) (a) of the Act for the compliance period;

RFtransferred in = the volume of renewable fuel notionally transferred to the fuel supplier under section 5 (1) (b) of the Act for the compliance period;

RFretained = the volume of renewable fuel retained by the fuel supplier under section 5 (3) (a) of the Act for the compliance period;

RFcredit = the volume of renewable fuel credited by the fuel supplier under section 5 (3) (b) of the Act for the compliance period;

RFdeferred = the volume of renewable fuel deferred by the fuel supplier under section 5 (4) (a) of the Act for the compliance period;

RFadded = the volume of renewable fuel added by the fuel supplier under section 5 (4) (b) of the Act for the compliance period;

Fsupplied = 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 class 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. Regs. 335/2012, Sch. 1, s. 5; 190/2016, App. 1, s. 4.]

#### Exemption from renewable fuel content requirements

7.2 (1) The director may, on application by a Part 2 fuel supplier, exempt the Part 2 fuel supplier from section 2 [requirements for renewable fuel content] of the Act for a compliance period if

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

(b) the director is satisfied that

(i) the Part 2 fuel supplier has not been designated under section 4 (2) [application to become a Part 2 fuel supplier] of the Act as a Part 2 fuel supplier for the compliance period, and

(ii) the Part 2 fuel supplier has not notionally transferred fuel under section 5 (1) (a) [transferring or retaining renewable fuel excess or deficiency] of the Act,

(iii) the total of the Part 2 fuel supplied in the compliance period by the Part 2 fuel supplier and its affiliates is not more than the amount referred to in paragraph (a).

(2) An application under subsection (1) must

(a) be made in the manner and form specified by the director, and

(b) include an exemption report in the form specified by the director.

(3) Section 9 (3) [identifying and contact information], as it applies to a compliance report, applies to an exemption report under this section.

(4) An exemption report under this section must set out the following information for the compliance period set out under paragraph (a):

(a) the compliance period to which the report relates;

(b) the volume of Part 2 fuel supplied by the Part 2 fuel supplier;

(c) if the Part 2 fuel supplier has affiliates who are also Part 2 fuel suppliers, the legal names and addresses of those affiliates and the volume of Part 2 fuel supplied by each of those affiliates in that compliance period.

(5) An exemption report under this section must be signed by the officer or employee referred to in section 9 (3) (c) and include a signed statement of that individual

(a) confirming that the Part 2 fuel supplier meets the criteria set out in subsection (1) (b),

(b) confirming

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

(ii) that a record evidencing the individual's authority to submit the report on behalf of the Part 2 fuel supplier is available on request, and

(c) containing 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 the director may require records evidencing the truth of that information to be provided.

(6) Section 9 (6) (a) [records evidencing a matter] applies for the purposes of evidencing the volume of Part 2 fuel reported under subsection (4) (b).

(7) If a Part 2 fuel supplier is granted an exemption under subsection (1) for a compliance period,

- (a) the exemption report under this section is the Part 2 fuel supplier's Part 2 compliance report for the compliance period, and
  - (b) subject to subsection (6), section 9 (4) to (7) does not apply to the Part 2 fuel supplier for the compliance period.
  - (8) A Part 2 fuel supplier that is granted an exemption under subsection (1) for a compliance period must maintain, at the address referred to in section 9 (3) (d), books of accounts and the records referred to in subsection (5) (b) (i) of this section for a period of 7 years after the end of that compliance period.
- [en. B.C. Reg. 287/2016, App. 1, s. 3; am. B.C. Reg. 287/2016, App. 2, s. 2.]

#### 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 signed statement of that individual

(a) confirming

(i) that records evidencing the renewable nature of all of the renewable fuel supplied in the compliance period are available on request,

(ii) that records evidencing each matter reported under subsection (4) (b) to (g) are available on request, and

(iii) that a record evidencing the individual's authority to submit the report on behalf of the Part 2 fuel supplier is available on request, and

(b) containing 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 the director may require records evidencing the truth of that information to be provided.

(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 submitted in the manner and 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; 50/2016, s. 13; 287/2016, App. 1, s. 4.]

#### 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) The compliance period for the purposes of section 6 of the Act is the calendar year.

(2) Repealed. [B.C. Reg. 190/2016, App. 1, s. 5 (b).]

[en. B.C. Reg. 232/2011, s. 3; am. B.C. Reg. 190/2016, App. 1, s. 5.]

Low carbon fuel requirement

11.02 (1) For the purposes of the formula set out in section 6 (4) [Part 3 fuels: calculation of credits or debits] 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 3 opposite the compliance period, and

(b) the carbon intensity limit for diesel class fuel is the limit set out in Column 2 opposite the compliance period.

Table 1

COLUMN 1

Compliance Period COLUMN 2

Carbon Intensity

Limit for Diesel

Class Fuel COLUMN 3

Carbon Intensity

Limit for Gasoline

Class Fuel

(g CO<sub>2</sub>e/MJ) (g CO<sub>2</sub>e/MJ)

2017 90.02 83.74

2018 88.60 82.41

2019 87.18 81.09

2020 and subsequent  
compliance periods 85.28 79.33

(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 fuel or renewable fuel  
in relation to diesel class fuel 1.0 Not applicable

Petroleum-based gasoline, natural gas-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

(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

Fuel COLUMN 2

#### Energy Density/Unit

Petroleum-based diesel fuel or diesel fuel produced from biomass	38.65 MJ/L
Hydrogenation-derived renewable diesel fuel	36.51 MJ/L
Biodiesel	35.40 MJ/L
Petroleum-based gasoline, natural gas-based gasoline or gasoline produced from biomass	34.69 MJ/L
Ethanol	23.58 MJ/L
Hydrogen	141.24 MJ/kg
LNG	52.46 MJ/kg
CNG	37.85 MJ/m <sup>3</sup>
Propane	25.47 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 fuel is 94.76 g CO<sub>2</sub>e/MJ,
  - (b) the carbon intensity for petroleum-based gasoline is 88.14 g CO<sub>2</sub>e/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; am. B.C. Regs. 141/2015, ss. 3 and 4; 190/2016, App. 1, s. 6; 287/2016, App. 2, ss. 3 to 5.]

#### Repealed

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

#### Exemption from low carbon fuel requirements

11.022 (1) The director may, on application by a Part 3 fuel supplier, exempt the Part 3 fuel supplier from section 6 (1) [low carbon fuel requirement] of the Act for a compliance period if

- (a) the Part 3 fuel supplier supplies Part 2 fuels, but not more than 75 million litres of Part 2 fuels, in the compliance period, and
- (b) the director is satisfied that the following criteria are met:
  - (i) the Part 3 fuel supplier has not been designated under section 7.1 (2) [application to become a Part 3 fuel supplier] of the Act as a Part 3 fuel supplier for the compliance period;
  - (ii) the Part 3 fuel supplier has not transferred or acquired debits under section 8 (2) [transferring credits and debits] of the Act in the compliance period;
  - (iii) the Part 3 fuel supplier has not had credits validated under section 8 (4) [validation required before credit transferred] of the Act as credits generated in the compliance period;
  - (iv) the Part 3 fuel supplier has not entered into an agreement under section 8.01 [agreement with director] of the Act in relation to the compliance period;
  - (v) the total of the Part 2 fuel supplied in the compliance period by the Part 3 fuel supplier and its affiliates, if any, is not more than the amount referred to in paragraph (a).

(2) An application under this section must

- (a) be made in the manner and form specified by the director, and
- (b) include an exemption report in the form specified by the director.

(3) Section 11.08 (3) [identifying and contact information], as it applies to a compliance report, applies to an exemption report under this section.

- (4) An exemption report under this section must set out the following information for the compliance period set out under paragraph (a):
- (a) the compliance period to which the report relates;
  - (b) the volume of Part 2 fuel supplied by the Part 3 fuel supplier;
  - (c) if the Part 3 fuel supplier has affiliates who are also Part 3 fuel suppliers, the legal names and addresses of those affiliates and the volume of Part 2 fuel supplied by each of those affiliates in that compliance period.
- (5) An exemption report under this section must be signed by the officer or employee referred to in section 11.08 (3) (c) and include a signed statement of that individual
- (a) confirming that the Part 3 fuel supplier meets the criteria set out under subsection (1) (b),
  - (b) confirming
    - (i) that the records evidencing the volume of Part 2 fuel supplied in the compliance period are available on request, and
    - (ii) that a record evidencing the individual's authority to submit the report on behalf of the Part 3 fuel supplier is available on request, and
  - (c) containing 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 the director may require records evidencing the truth of that information to be provided.
- (6) Section 9 (6) (a) [records evidencing a matter] applies for the purposes of evidencing the volume of Part 2 fuel reported under subsection (4) (b).
- (7) If a Part 3 fuel supplier is granted an exemption under subsection (1) for a compliance period,
- (a) the exemption report under this section is the Part 3 fuel supplier's Part 3 compliance report for the compliance period, and
  - (b) section 11.08 (4) to (10) does not apply to the Part 3 fuel supplier for the compliance period.
- (8) A Part 3 fuel supplier that is granted an exemption under subsection (1) for a compliance period must maintain, at the address referred to in section 11.08 (3) (d), books of accounts and the records referred to in subsection (5) (b) (i) of this section for a period of 7 years after the end of that compliance period.
- [en. B.C. Reg. 287/2016, App. 1, s. 5; am. B.C. Reg. 287/2016, App. 2, s. 6.]

#### 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.]

#### Carbon intensity and fuel records required in relation to exclusion agreements

11.031 (1) This section applies to a person who, in a compliance period, sells Part 3 fuel under an exclusion agreement to a Part 3 fuel supplier.

- (2) Subject to subsection (3), the person must provide the following information to the purchasing Part 3 fuel supplier in relation to each transfer of Part 3 fuel under the exclusion agreement:
- (a) a carbon intensity record in accordance with section 11.071 [carbon intensity records — content requirements] for each Part 3 fuel transferred;
  - (b) identification and quantity of the fuel to which the carbon intensity record relates.
- (3) Subsection (2) does not apply in relation to petroleum-based gasoline or petroleum-based diesel fuel.
- (4) The information required under subsection (2) must be provided to the purchaser by the earlier of the following dates:
- (a) the date that is 30 days after the person receives a written request from the purchaser for the information;
  - (b) January 31 of the calendar year following the compliance period.
- (5) On request of the director, the person must provide to the director the information referred to in subsection (2) by the date specified by the director.
- (6) The director may provide information provided under subsection (5) to the purchaser entitled to receive it under subsection (2).
- [en. B.C. Reg. 287/2016, App. 1, s. 6.]

#### Exclusion reports required in relation to exclusion agreements

11.032 (1) A person who sells or purchases Part 3 fuel under an exclusion agreement in a compliance period must submit to the director an exclusion report in accordance with this section for the compliance period.

- (2) An exclusion report must be submitted to the director on or before March 31 of the calendar year following the compliance period.
- (3) An exclusion report must set out, as applicable, all the following identifying and contact information respecting the person:
- (a) legal name;
  - (b) operating name;
  - (c) name of the officer or employee submitting the report on behalf of the person;
  - (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) An exclusion report must set out all the following information in relation to the person for the compliance period set out under paragraph (a):
- (a) the compliance period to which the report relates;
  - (b) for each type of Part 3 fuel that the person purchased under exclusion agreements,
    - (i) the legal names and addresses of the sellers,
    - (ii) the quantity of that type of Part 3 fuel that the person purchased under the exclusion agreements, and
    - (iii) the quantity of that type of Part 3 fuel that the person purchased under the exclusion agreements and did not sell under exclusion agreements or supply;
  - (c) for each type of Part 3 fuel that the person sold under exclusion agreements,
    - (i) the legal names and addresses of the purchasers, and
    - (ii) the quantity of that type of Part 3 fuel that the person sold under exclusion agreements.
- (5) An exclusion report must be signed by the officer or employee referred to in subsection (3) (c) and include a signed statement of that individual
- (a) confirming



- (i) that records evidencing each matter reported under subsection (4) (b) or (c) are available on request, and
- (ii) that a record evidencing the individual's authority to submit the report on behalf of the person is available on request, and
- (b) containing 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 the director may require records evidencing the truth of that information to be provided.

- (6) For the purposes of subsection (5), section 11.08 (9) applies to an exclusion report.
  - (7) An exclusion report must be submitted in the manner and form specified by the director.
  - (8) A person who is required to submit an exclusion report 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 (5) (a) (i) for a period of 7 years after the end of that compliance period.
- [en. B.C. Reg. 287/2016, App. 1, s. 6.]

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

Fuel COLUMN 2

Carbon Intensity

(g CO<sub>2</sub>e/MJ)

Renewable fuel in relation to diesel class fuel	98.96
Propane	75.35
Renewable fuel in relation to gasoline class fuel	88.14
Natural gas-based gasoline	90.07
LNG	112.65
CNG	63.64
Electricity	19.73
Hydrogen	96.82

[en. B.C. Reg. 335/2012, Sch. 1, s. 11; am. B.C. Regs. 141/2015, s. 5; 287/2016, App. 2, s. 7.]

Carbon intensity components attributable to fuel

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 the director may require records evidencing the truth of that information to be provided.

(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; 287/2016, App. 1, s. 7.]

#### Carbon intensity records — content requirements

11.071 (1) A carbon intensity record must set out the following for each Part 3 fuel to which it relates:

- (a) the carbon intensity of the Part 3 fuel;
  - (b) which of the provisions of the Act was relied on to determine the carbon intensity of the Part 3 fuel:
    - (i) section 6 (5) (a);
    - (ii) section 6 (5) (b);
    - (iii) section 6 (5) (c);
    - (iv) section 6 (5) (d) (i);
    - (v) section 6 (5) (d) (ii) (A);
    - (vi) section 6 (5) (d) (ii) (B);
  - (c) the following information, as applicable:
    - (i) if the person required to provide the carbon intensity record determined the carbon intensity of the Part 3 fuel using a carbon intensity published in accordance with section 6 (5) (c) of the Act, the fuel code shown for the Part 3 fuel in that publication;
    - (ii) if the person required to provide the carbon intensity record determined the carbon intensity of the Part 3 fuel using the method referred to in section 6 (5) (d) (ii) (A) of the Act, a record of inputs to an approved GHGenius, as defined in section 11.06 (1) of this regulation, and any additional information necessary to reproduce, using the approved GHGenius, the result submitted;
    - (iii) if the person required to provide the carbon intensity record determined the carbon intensity of the Part 3 fuel using the method referred to in section 6 (5) (d) (ii) (B) of the Act, 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.
- (2) A carbon intensity record for a blend of Part 3 fuels must
- (a) set out the proportion of each Part 3 fuel in the blend, and
  - (b) include carbon intensity records that conform to subsection (1) for each Part 3 fuel in the blend.
- (3) A carbon intensity record must be in the form specified by the director.

[en. B.C. Reg. 287/2016, App. 1, s. 8.]

#### 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) 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) Repealed. [B.C. Reg. 190/2016, App. 1, s. 7 (b).]

(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) to (c.2) Repealed. [B.C. Reg. 287/2016, App. 1, s. 9 (a).]
- (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).]

(4.1) A Part 3 compliance report must include a carbon intensity record for each Part 3 fuel reported under subsection (4) (b).

(5) Repealed. [B.C. Reg. 287/2016, App. 1, s. 9 (c).]

(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 signed statement of that individual

(a) confirming, as applicable,

(i) that records evidencing the carbon intensity of all Part 3 fuel reported under subsection (4) (b) are available on request,

(ii) that records evidencing each matter reported under subsection (4) (b) to (f) are available on request, and

(iii) that a record evidencing the individual's authority to submit the report on behalf of the Part 3 fuel supplier is available on request, and

(b) containing 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 the director may require records evidencing the truth of that information be provided.

(8) Repealed. [B.C. Reg. 287/2016, App. 1, s. 9 (e).]

(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;

(c) carbon intensity records.

(10) A Part 3 compliance report must be submitted in the manner and 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; 50/2016, s. 15; 190/2016, App. 1, s. 7; 287/2016, App. 1, s. 9.]

### 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.]

### Application for validation of credits

11.101 (1) An application under section 8 (4) of the Act must

- (a) be made in the manner and form specified by the director, and
- (b) include a report in the form specified by the director.

(2) Section 11.08 (3) [identifying and contact information], as it applies to a compliance report, applies to a report under this section.

(3) A report under this section must set out

- (a) the 3 month period to which the application relates, and
- (b) the quantity of each Part 3 fuel supplied in that period.

(4) A report under this section must include the carbon intensity record for each Part 3 fuel reported under subsection (3) (b).

(5) A report under this section must be signed by the officer or employee referred to in section 11.08 (3) (c) and include a signed statement of that individual

(a) confirming

(i) that records evidencing the carbon intensity of all Part 3 fuel reported under subsection (3) (b) are available on request, and

(ii) that a record evidencing the individual's authority to submit the report on behalf of the Part 3 fuel supplier is available on request, and

(b) containing 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 the director may require records evidencing the truth of that information be provided.

(6) For the purposes of subsection (5), section 11.08 (9) applies to a report under this section.

(7) A person that applies under this section in 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 (5) (a) (i) for a period of 7 years after the end of that compliance period.

[en. B.C. Reg. 287/2016, App. 1, s. 10.]

### Transferring debits and validated credits

11.11 (1) A transfer of debits or validated credits under section 8 (2) of the Act

- (a) is not effective unless the transfer is proposed in accordance with subsection (2) of this section and approved by the director, and
  - (b) takes effect on the later of the following dates:
    - (i) the date on which the transfer is approved by the director;
    - (ii) a date specified in the proposal.
  - (2) A proposal under this section must
    - (a) be submitted to the director in the form and manner specified by the director,
    - (b) include evidence satisfactory to the director that the transferor and the transferee both consent to the transfer, and
    - (c) include the following information:
      - (i) the legal name and address of the transferor;
      - (ii) the legal name and address of the transferee;
      - (iii) the number of debits or validated credits to be transferred;
      - (iv) whether the transfer is for consideration and, if so, the fair market value of the consideration in Canadian dollars per debit or validated credit to be transferred;
      - (v) any other information required by the director.
  - (3) Without limiting subsection (1) (a), the director may decline to approve a proposed transfer if
    - (a) the director considers that the intent of the transfer is to avoid compliance with the Act or this regulation, or
    - (b) the director is not satisfied that the transferor or transferee will be able to comply with section 6 of the Act.
  - (4) A person who is required under section 8 (10) of the Act to maintain records must maintain the records at its principal place of business in British Columbia, if any, or the place of business of its attorney, otherwise, for a period of 7 years after the end of the compliance period in which the transfer occurred.
  - (5) The director may disclose statistical information about transfers of debits and validated credits including, without limitation, information respecting
    - (a) the numbers of debits or validated credits traded, and
    - (b) the average price per debit or validated credit traded.
- [en. B.C. Reg. 190/2016, App. 2, s. 1; am. B.C. Reg. 287/2016, App. 1, s. 11.]

### Part 3 — Administrative Penalties

#### Prescribed contraventions

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

- (a) a failure to provide a Part 2 fuel compliance report by the date it is due;
  - (b) a failure to provide a Part 3 fuel compliance report by the date it is due;
  - (c) a failure to provide a supplementary report under section 3 (2) [Part 2 compliance reports] or 7 (2) [Part 3 compliance reports] of the Act;
  - (d) a failure to give written notice required by section 6 (9) [change in carbon intensity] of the Act;
  - (e) a failure to retain records as required under section 8 (10) [transfers of credits and debits] of the Act.
- (2) The following contraventions of this regulation are prescribed for the purposes of section 12 (1) of the Act:
- (a) a contravention of section 6.2 [requirement for complete and accurate reports and records];
  - (b) a failure to comply with the requirements of section 6.3 [fuel identification requirements];
  - (c) a failure to provide additional information in accordance with section 6.4 [additional information in support of reports and records];
  - (d) any of the following in relation to section 7.3 [renewable fuel labelling requirements]:

- (i) a failure to post a label in the circumstances required under subsection (1) of that section;
  - (ii) a failure to give notice in the circumstances required under subsection (1) of that section;
  - (iii) a failure to give notice in accordance with subsection (2) (b) of that section;
  - (iv) posting a label that does not meet the requirements of subsection (3) of that section;
  - (e) a failure to provide a carbon intensity record or other information required under section 11.031 (5) [director requirement for information related to exclusion agreement];
  - (f) a failure to provide a report required under section 11.032 (1) [exclusion reports in relation to exclusion agreements];
  - (g) a failure to retain books of accounts or records as required under any of the following:
    - (i) section 6.4 (6) [additional information in support of reports and records];
    - (ii) section 7.1 (1) [notional renewable fuel transfers];
    - (iii) section 7.2 (8) [exemption from renewable fuel requirements];
    - (iv) section 11 (1) or (2) [records for Part 2 fuel supplier];
    - (v) section 11.022 (8) [exemption from low carbon fuel requirements];
    - (vi) section 11.032 (8) [reports in relation to exclusion agreements];
    - (vii) section 11.10 (1) or (2) [records for Part 3 fuel supplier];
    - (viii) section 11.11 (4) [transferring debits and validated credits];
    - (ix) section 29 (6) [transition — transferring debits and validated credits].
- (3) A failure to pay an administrative penalty when it is due under
- (a) section 9 (2), 10 (2) or 11 (5) of the Act, or
  - (b) section 18 (2) of this regulation,
- as applicable, is prescribed as a contravention for the purposes of section 12 (1) of the Act.  
[en. B.C. Reg. 287/2016, App. 1, s. 12.]

#### 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 for a contravention described in any of the following is \$100 000:

- (a) section 12 (1) (a) [Part 2 fuel compliance report];
- (b) section 12 (1) (b) [Part 3 fuel compliance report];
- (c) section 12 (1) (c) [supplementary reports];
- (d) section 12 (2) (a) [complete and accurate reports and records];
- (e) section 12 (2) (b) [fuel identification requirements];
- (f) section 12 (2) (c) [information in support of reports and records];
- (g) section 12 (2) (e) [carbon intensity records];
- (h) section 12 (2) (f) [exclusion reports].

(2.1) The maximum amount of an administrative penalty that may be imposed for a contravention described in any of the following is \$10 000:

- (a) section 12 (1) (d) [notice of change in carbon intensity];
- (b) section 12 (1) (e) [transfer records for credits and debits];
- (c) section 12 (2) (g) [record retention requirements].

(2.2) The maximum amount of an administrative penalty that may be imposed for a contravention described in section 12 (2) (d) [renewable fuel labelling requirements] is \$500.

(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; 287/2016, App. 1, s. 13.]

#### Notice of intention to impose administrative penalty

14 (1) Before sending an administrative penalty notice to a fuel supplier under section 11 (2) or (4) or 12 (2) 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; 141/2015, s. 6.]

#### 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 (4) or 12 (2) of the Act.

[am. B.C. Regs. 338/2010, Sch. s. 20; 141/2015, s. 6.]

#### 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 (4) or 12 (2) 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. Regs. 338/2010, Sch. s. 22; 141/2015, s. 6.]

#### 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 — Administration and 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.

Disclosure of information

25.1 For the purposes of section 22 (4) (b) [confidentiality] of the Act, the following enactments are prescribed:

- (a) the Carbon Tax Act;
  - (b) the Motor Fuel Tax Act.
- [en. B.C. Reg. 190/2016, App. 1, s. 8 (b).]

#### 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.]

Repealed

28 Repealed. [B.C. Reg. 190/2016, App. 1, s. 9.]

Transition — transferring debits and validated credits

29 (1) In this section, "transition period" means the part of the 2016 compliance period before September 1, 2016.

(2) A Part 3 fuel supplier that is or was a Part 3 fuel supplier in the 2016 compliance period may not transfer debits or validated credits under section 8 (2) of the Act unless the Part 3 fuel supplier has submitted to the director

- (a) a Part 3 compliance report for the 2016 compliance period, or
- (b) a report under this section.

(3) Section 11.08 (3) applies to a report under this section.

(4) A report under this section must set out, as applicable, all the following information in relation to the Part 3 fuel supplier for the transition period:

- (a) whether the Part 3 fuel supplier transferred or acquired debits or validated credits under section 8 (2) of the Act;
- (b) 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) for each transfer from the transferring Part 3 fuel supplier,
    - (A) the date of the transfer,
    - (B) the number of debits or validated credits transferred, and
    - (C) whether the transfer was for consideration and, if so, the fair market value of the consideration in Canadian dollars per debit or validated credit transferred;
- (c) 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) for each transfer to the acquiring Part 3 fuel supplier,
    - (A) the date of the transfer,
    - (B) the number of debits or validated credits transferred, and
    - (C) whether the transfer was for consideration and, if so, the fair market value of the consideration in Canadian dollars per debit or validated credit transferred.

(5) A report under this section must be signed by the officer or employee referred to in section 11.08 (3) (c) and include a signed statement of that individual

- (a) confirming, as applicable, all the following:

(i) that records evidencing each matter reported under subsection (4) (b) and (c), if applicable, are available on request;

(ii) that a record evidencing the individual's authority to submit the report on behalf of the Part 3 fuel supplier is available on request, and

(b) containing 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 the director may require records evidencing the truth of that information to be provided.

(6) A person that submits a report under this section 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 (5) (a) (i) for a period of 7 years after the end of the 2016 compliance period.

[en. B.C. Reg. 190/2016, App. 2, s. 2; am. B.C. Reg. 287/2016, App. 1, s. 14.]

[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]

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