

**ALBERTA REGULATION 133/2019**  
**Climate Change and Emissions Management Act**  
**TECHNOLOGY INNOVATION AND EMISSIONS**  
**REDUCTION REGULATION**

**Part 1**

**Interpretation and Application**

**Interpretation**

**1(1)** In this Regulation,

- (a) “Act” means,
  - (i) until December 31, 2019, the *Climate Change and Emissions Management Act*, and
  - (ii) on and after January 1, 2020, the *Emissions Management and Climate Resilience Act*;
- (b) “aggregate facility” means a group of 2 or more conventional oil and gas facilities designated as an aggregate facility by the director under [section 5](#);
- (c) “allowable emissions” means the allowable emissions
  - (i) for a large emitter or opted-in facility, as determined in accordance with [section 9](#), or
  - (ii) for an aggregate facility, as determined in accordance with [section 10](#);
- (d) “annual forecasting report” means a report under [section 16](#);
- (e) “benchmark” means the emissions intensity assigned for a product for allocation purposes;
- (f) “benchmark unit” means the unit of measure of a product for a benchmark;
- (g) “biomass CO<sub>2</sub> emissions” means all emissions of carbon dioxide released from sources located at a facility as a result of the decomposition, fermentation or combustion of biomass;
- (h) “CO<sub>2</sub>e tonnes” in respect of a specified gas means the carbon dioxide equivalent tonnes determined in accordance with subsection (3);
- (i) “compliance cost containment allocation benchmark” means a benchmark assigned under [section 8](#);
- (j) “compliance report” means a report under [section 15](#);
- (k) “conventional oil and gas facility” means
  - (i) a facility for extracting, from an underground geological deposit or reservoir, gas, oil or primary bitumen,
  - (ii) a facility for processing gas,
  - (iii) a facility for the primary processing of oil or primary bitumen,

(iv) a facility for disposing of waste, in an underground geological formation, resulting from an activity described in subclauses (i) to (iii),

(v) a facility for transporting, in a pipeline, gas, oil or primary bitumen, but does not include

(A) any facility that constitutes a distribution system for the distribution of gas within a community to ultimate consumers, or

(B) any facility for transporting oil, gas or primary bitumen across a provincial or international border,

or

(vi) a facility for storing gas, oil or primary bitumen in the course of the gas, oil or primary bitumen being transported by a facility included in the definition in subclause (v)

but does not include a large emitter;

- (l) “cost containment designation” means a designation issued under [section 14\(6\)](#);
- (m) “department” means the department administered by the Minister;
- (n) “direct emissions” means the quantity of all specified gases released from sources located at a facility, expressed in CO<sub>2</sub>e tonnes, not including biomass CO<sub>2</sub> emissions;
- (o) “electricity facility” means a facility that produces electricity as a primary product or both electricity and industrial heat as primary products;
- (p) “emission offset” means an instrument serialized on the Alberta Emissions Offset Registry
- (i) on or after January 1, 2020, in recognition of a reduction in the release of a specified gas or a sequestration or geological sequestration of, or a capture of, carbon dioxide that meets the requirements of [section 19](#),
  - (ii) on or after January 1, 2018 and before January 1, 2020, in recognition of a reduction in the release of a specified gas or a sequestration of, or a capture of, carbon dioxide that met the requirements of [section 16](#) of the *Carbon Competitiveness Incentive Regulation (AR 255/2017)* (repealed), or
  - (iii) before January 1, 2018, in recognition of a reduction in the release of a specified gas or a sequestration of, or a capture of, carbon dioxide that met the requirements of [section 7](#) of the *Specified Gas Emitters Regulation (AR 139/2007)* (expired);
- (q) “emission offset project” means a project undertaken to generate emission offsets;
- (r) “emission offset project developer” in respect of an emission offset project means the person registered as the project developer of the emission offset project on the Alberta Emissions Offset Registry;
- (s) “emission performance credit” means
- (i) an emission performance credit issued under [section 20](#),
  - (ii) an emission performance credit issued under [section 17](#) of the *Carbon Competitiveness Incentive Regulation (AR 255/2017)* (repealed), or

- (iii) an emission performance credit issued under [section 9](#) of the *Specified Gas Emitters Regulation (AR 139/2007)* (expired);
- (t) “emissions intensity” means the quantity of specified gases, expressed in CO<sub>2</sub>e tonnes, released in the production of a benchmark unit of a product;
- (u) “emissions reduction plan” means a plan or updated plan referred to in [section 14\(2\)](#) or [17\(3\)](#);
- (v) “emissions reduction plan report” means a report under [section 17](#);
- (w) “facility” means
  - (i) a plant, structure, thing or site, or
  - (ii) any 2 or more contiguous or adjacent plants, structures, things or sites
    - (A) that are operated and function in an integrated fashion, and
    - (B) for which the same person is the person responsible,

where one or more activities listed in any of sections 2 to 11 of the Schedule of Activities to the *Environmental Protection and Enhancement Act* occur, including all the buildings, equipment, structures, machinery and vehicles that are part of the activity or activities;
- (x) “facility-specific benchmark” means a benchmark assigned under [section 7](#);
- (y) “forecasting facility” means a large emitter that has total regulated emissions of 1 000 000 CO<sub>2</sub>e tonnes or more in 2016 or a subsequent year;
- (z) “Fund” means the Technology Innovation and Emissions Reduction Fund continued by the Act;
- (aa) “fund credit” means a fund credit obtained under [section 21](#);
- (bb) “high-performance benchmark” means a benchmark set out in the Table in Schedule 2 or established by the Minister under [section 6](#);
- (cc) “large emitter” means, subject to [section 3](#), a facility that has direct emissions of 100 000 CO<sub>2</sub>e tonnes or more in 2016 or a subsequent year;
- (dd) “net emissions” means the net emissions for a regulated facility determined under [section 13](#);
- (ee) “net geological sequestration” means the quantity of carbon dioxide that is sequestered in a geological formation, less the quantity of specified gases, expressed in CO<sub>2</sub>e tonnes, released as a result of the sequestration activity;
- (ff) “net sequestration” means the quantity of carbon dioxide sequestered in a sink, other than a geological formation, less the quantity of specified gases, expressed in CO<sub>2</sub>e tonnes, released as a result of the sequestration activity;
- (gg) “opted-in facility” means a facility designated as an opted-in facility under [section 4](#);
- (hh) “person responsible” means, subject to subsection (2)(c),
  - (i) where the release of the specified gas occurs at a facility that is the subject of an approval or registration under the *Environmental Protection and Enhancement Act*, the holder of the approval or registration,

- (ii) where the release of the specified gas occurs at a facility that is not the subject of an approval or registration referred to in subclause (i) but is the subject of an approval or other authorization issued by the Alberta Energy Regulator or the Alberta Utilities Commission, the holder of that approval or authorization, or
  - (iii) where the release of the specified gas occurs at any other facility, the owner of the facility;
- (ii) “primary bitumen” means bitumen, other than oil sands in situ bitumen as defined in section 1(1)(j) of Schedule 2 or oil sands mining bitumen as defined in section 1(1)(k) of Schedule 2, that is extracted from a well;
- (jj) “primary processing” means any processing of oil or primary bitumen that is for the principal purpose of removing any of the following:
  - (i) water;
  - (ii) hydrocarbon liquids or gases;
  - (iii) sulphur compounds;
  - (iv) contaminants;
  - (v) any combination of 2 or more things listed in subclauses (i) to (iv);
- (kk) “product” means
  - (i) an end product or intermediate product produced by a regulated facility, or
  - (ii) an input, output, process or other thing specified under subsection (4) as a product produced by a regulated facility;
- (ll) “production” means the quantity, expressed in the applicable benchmark unit, of a product produced by a regulated facility;
- (mm) “regulated facility” means an aggregate facility, large emitter or opted-in facility;
- (nn) “renewable electricity facility” means an electricity facility that produces electricity from an energy resource that occurs naturally and that can be replenished or renewed within a human lifespan, including, but not limited to,
  - (i) moving water,
  - (ii) wind,
  - (iii) heat from the earth,
  - (iv) sunlight, and
  - (v) sustainable biomass;
- (oo) “specified gas” means a gas listed in the Specified Gas column of Schedule 1;
- (pp) “Standard for Completing Greenhouse Gas Compliance and Forecasting Reports” means the Standard for Completing Greenhouse Gas Compliance and Forecasting Reports, published by the department, as amended or replaced from time to time;
- (qq) “Standard for Developing Benchmarks” means the Standard for Developing Benchmarks, published by the department, as amended or replaced from time to time;

- (rr) “Standard for Greenhouse Gas Emission Offset Project Developers” means the Standard for Greenhouse Gas Emission Offset Project Developers, published by the department, as amended or replaced from time to time;
  - (ss) “Standard for Validation, Verification and Audit” means the Standard for Validation, Verification and Audit, published by the department, as amended or replaced from time to time;
  - (tt) “third party assurance provider” means a person who is eligible to be a third party assurance provider under [section 27](#);
  - (uu) “total regulated emissions” means the total regulated emissions for a regulated facility determined in accordance with [section 13\(3\)](#) or [\(4\)](#);
  - (vv) “true-up obligation” means the quantity by which a regulated facility’s total regulated emissions in a year exceeds the regulated facility’s allowable emissions for the year;
  - (ww) “year” means a calendar year unless otherwise specified.
- (2)** Except where otherwise indicated, for the purposes of this Regulation, the person responsible for
- (a) a large emitter in respect of a year is the person who is the person responsible for the large emitter on the last day of the year,
  - (b) an opted-in facility in respect of a year is the person who is the person responsible for the opted-in facility on the last day of the year, and
  - (c) an aggregate facility
    - (i) in respect of the first year for which the aggregate facility is designated as an aggregate facility is the person responsible who signed the application under [section 5\(1\)](#), and
    - (ii) in respect of any other year is the person who is the person responsible for the aggregate facility on the first day of the year,

regardless of whether that person continues to satisfy the criteria set out in subsection (1)(hh) with respect to any facility that is part of the aggregate facility during the year.
- (3)** For the purposes of this Regulation, a quantity of a specified gas, expressed in tonnes, is converted into carbon dioxide equivalent tonnes by multiplying that quantity by the global warming potential set out for the specified gas in the Standard for Completing Greenhouse Gas Compliance and Forecasting Reports.
- (4)** The director may specify an input, output, process or other thing as a product produced by a regulated facility for the purposes of this Regulation.
- (5)** For the purposes of this Regulation, a large emitter or opted-in facility is considered to begin commercial operation on January 1 of the year immediately following the year in which the large emitter or opted-in facility first produces a product.
- (6)** Notwithstanding subsection (5), the director may designate the year of commercial operation that a large emitter or opted-in facility is in for the purposes of this Regulation if
- (a) the large emitter or opted-in facility
    - (i) is in its 3rd or 4th year of commercial operation and is experiencing or has experienced a significant disruption resulting in the large emitter or opted-in facility having significantly less production than anticipated for an extended period of time,
    - (ii) is undergoing or has undergone a significant expansion, or
    - (iii) is undergoing or has undergone a significant change,

and

(b) the director considers it appropriate to make the designation.

(7) The director shall not make more than one designation under subsection (6) with respect to a particular significant disruption, significant expansion or significant change.

(8) In determining whether it is appropriate to make a designation in respect of a large emitter or opted-in facility under subsection (6), the director must consider

(a) in the case of a significant disruption experienced by a large emitter or opted-in facility, the nature and extent of the delay in reaching or sustaining anticipated production levels and the effect of the delay on specified gas emissions,

(b) in the case of a significant expansion or significant change undergone by a large emitter or opted-in facility, the nature and extent of the expansion or change and the technologies employed in the expansion or change that affect specified gas emissions, and

(c) any other matter that in the director's opinion is relevant to determining whether it is fair and reasonable to make the designation considering the objective of reducing specified gas emissions.

(9) Notwithstanding subsection (5), the director may, on request of the person responsible for a large emitter or opted-in facility, designate that the large emitter or opted-in facility is in its 3rd or a subsequent year of commercial operation for the purposes of this Regulation.

(10) The director shall not make a designation under subsection (9) unless the director receives the request of the person responsible for the large emitter or opted-in facility on or before November 30 of the year for which the designation is requested.

(11) For the purposes of sections 8(4)(a) and 14(6)(c) and (12)(e), whether the person responsible for a large emitter or opted-in facility is likely to experience economic hardship attributable to the compliance costs incurred in respect of the large emitter or opted-in facility must be determined in accordance with the Standard for Developing Benchmarks.

#### **Incorporation of standards**

2 Pursuant to section 61 of the Act, the following standards published by the department, as amended or replaced from time to time, are incorporated into and form part of this Regulation:

(a) Standard for Completing Greenhouse Gas Compliance and Forecasting Reports;

(b) Standard for Developing Benchmarks;

(c) Standard for Greenhouse Gas Emission Offset Project Developers;

(d) Standard for Validation, Verification and Audit.

#### **Rules respecting large emitters**

3(1) If a facility, other than an opted-in facility or an aggregate facility, begins to have direct emissions of 100 000 CO<sub>2</sub>e tonnes or more in 2019 or a subsequent year, this Regulation does not apply to the facility until the year after the year in which the facility begins to have direct emissions of 100 000 CO<sub>2</sub>e tonnes or more.

(2) An opted-in facility, or a facility that is part of an aggregate facility, that begins to have direct emissions of 100 000 CO<sub>2</sub>e tonnes or more in a year

(a) continues

(i) as an opted-in facility, or

(ii) as part of the aggregate facility,

as the case may be, for the year,

and

- (b) becomes a large emitter the following year.

## **Part 2 Emissions Reduction**

### **Opted-in and Aggregate Facilities**

#### **Opted-in facilities**

**4(1)** In this section,

- (a) “emissions-intensive-trade-exposed sector” means a sector
  - (i) that has an emissions intensiveness that equals or exceeds 3% and a trade exposure that equals or exceeds 20%,
  - (ii) that has an emissions intensiveness that equals or exceeds 15% and a trade exposure that equals or exceeds 10% but is less than 20%, or
  - (iii) that has an emissions intensiveness that equals or exceeds 30% and a trade exposure that equals or exceeds 0% but is less than 10%;
- (b) “emissions intensiveness” in respect of a sector means the full carbon pricing costs of the sector divided by the gross value added for the sector;
- (c) “full carbon pricing costs” means full carbon pricing costs as established in accordance with the Standard for Developing Benchmarks;
- (d) “sector” means the part of the economy consisting of entities that produce goods or services that are the same or substantially the same;
- (e) “trade exposure” means the ratio of A to B

where

A is the total value in dollars of all end products produced by the sector in Alberta that are exported from Alberta plus the total value in dollars of all end products produced by the sector that are imported into Alberta;

B is the total value in dollars of all end products produced by the sector in Alberta plus the total value in dollars of all end products produced by the sector that are imported into Alberta.

**(2)** Subject to subsection (11), the person responsible for a facility may apply to the director for the facility to be designated as an opted-in facility.

**(3)** An application under subsection (2) must

- (a) be submitted in the form and manner prescribed by the director,
- (b) include the information required by the director, and
- (c) be received by the director on or before September 1 of the year preceding the year in which the designation is requested to be effective.

**(4)** The director may designate a facility as an opted-in facility if

- (a) the application meets the requirements under subsection (3), and
- (b) the director is satisfied that
  - (i) the facility competes directly with a facility to which this Regulation applies, or

- (ii) the facility is in an emissions-intensive-trade-exposed sector and that the facility
  - (A) had direct emissions of 10 000 CO<sub>2</sub>e tonnes or more in 2017 or a subsequent year, or
  - (B) is likely to have direct emissions of 10 000 CO<sub>2</sub>e tonnes or more in its 3rd year of commercial operation.
- (5) The director shall notify the person responsible for a facility in writing of the director's decision as to whether to designate the facility as an opted-in facility.
- (6) The person responsible for an opted-in facility may apply to the director for the designation of the facility as an opted-in facility to be revoked.
- (7) An application under subsection (6) must
  - (a) be submitted in the form and manner prescribed by the director,
  - (b) contain the information required by the director, and
  - (c) be received by the director on or before September 1 of the year preceding the year in which the revocation is requested to be effective.
- (8) The director may revoke the designation of a facility as an opted-in facility on the application of the person responsible if
  - (a) the application meets the requirements under subsection (7), and
  - (b) no specified gases were geologically sequestered at the opted-in facility in any year.
- (9) The director shall notify the person responsible for an opted-in facility in writing of the director's decision as to whether to revoke the designation of the opted-in facility as an opted-in facility.
- (10) The person responsible for a facility that has been notified that the designation of the facility as an opted-in facility has been revoked shall submit the compliance report for the last year that the facility was designated as an opted-in facility on or before June 30 of the following year.
- (11) The person responsible for a renewable electricity facility is not eligible to apply for the renewable electricity facility to be designated as an opted-in facility if
  - (a) the renewable electricity facility has a total nominal capacity of less than 5 megawatts,
  - (b) the renewable electricity facility is part of a renewable electricity program in respect of which a participant has entered into a renewable electricity support agreement under [section 7\(4\) of the \*Renewable Electricity Act\*](#), or
  - (c) in the opinion of the director, an economic benefit is being provided in respect of the renewable electricity facility under a program or other scheme that is attributable to the electricity produced at the renewable electricity facility having been produced from an energy resource referred to in [section 1\(1\)\(nn\)](#).

#### **Aggregate facilities**

- 5(1)** The person responsible for 2 or more conventional oil and gas facilities may apply to the director
  - (a) for a group of 2 or more of the conventional oil and gas facilities to be designated as an aggregate facility, or
  - (b) for an amendment of a designation held by the person responsible under subsection (3) to add a conventional oil and gas facility to an aggregate facility.
- (2) An application under subsection (1) must
  - (a) be submitted in the form and manner prescribed by the director,
  - (b) include the information required by the director, and

- (c) be received by the director on or before December 1 of the year preceding the year in which the designation or amendment of the designation is requested to be effective.
- (3) The director may designate a group of two or more conventional oil and gas facilities as an aggregate facility, or amend a designation to add a conventional oil and gas facility to an aggregate facility, if
  - (a) the application meets the requirements under subsection (2),
  - (b) the director is satisfied that the same person is the person responsible for each of the conventional oil and gas facilities to be included in the aggregate facility, and
  - (c) none of the conventional oil and gas facilities to be included in the aggregate facility is a large emitter, an opted-in facility or a part of another aggregate facility.
- (4) The director shall notify the person responsible for the conventional oil and gas facilities in respect of which an application is made under subsection (1) in writing of the director's decision as to whether to
  - (a) designate the group of conventional oil and gas facilities as an aggregate facility, or
  - (b) amend the designation of an aggregate facility to add a conventional oil and gas facility.
- (5) Notwithstanding any change in the person responsible for a conventional oil and gas facility or other circumstance that could affect the inclusion of a conventional oil and gas facility in an aggregate facility, subject to subsection (8), if a conventional oil and gas facility is part of an aggregate facility on January 1 of a year, the conventional oil and gas facility continues to be part of the aggregate facility for the whole year.
- (6) Subject to subsection (5), the director may amend the designation of an aggregate facility to remove a conventional oil and gas facility from the aggregate facility on the request of the person responsible if the request is received on or before December 1 of the year preceding the year for which the amendment is requested to be effective.
- (7) The director shall amend the designation of an aggregate facility to remove a conventional oil and gas facility from the aggregate facility if
  - (a) the conventional oil and gas facility ceases to be a conventional oil and gas facility,
  - (b) the conventional oil and gas facility has direct emissions of 100 000 CO<sub>2</sub>e tonnes or more in a year,
  - (c) the conventional oil and gas facility is decommissioned,
  - (d) the person responsible for the conventional oil and gas facility determined in accordance with the criteria in [section 1\(1\)\(hh\)](#) has changed, unless the same change has occurred with respect to every other conventional oil and gas facility included in the aggregate facility, or
  - (e) the conventional oil and gas facility is designated as an opted-in facility.
- (8) The amendment of a designation under subsection (6) or (7) is effective
  - (a) at the end of the day on December 31 of the year
    - (i) for which the amendment under subsection (6) is requested to be effective, or
    - (ii) in which an event referred to in subsection (7)(a) to (d) occurs,
  - or
  - (b) immediately on the conventional oil and gas facility being designated as an opted-in facility as referred to in subsection (7)(e).
- (9) The person responsible for an aggregate facility may apply to the director for the aggregate facility designation to be revoked.

- (10) An application under subsection (9) must
- (a) be submitted in the form and manner prescribed by the director,
  - (b) contain the information required by the director, and
  - (c) be received by the director on or before December 1 of the year preceding the year in which the revocation is requested to be effective.
- (11) The director may revoke the designation of a group of conventional oil and gas facilities as an aggregate facility
- (a) on the application of the person responsible if the application meets the requirements under subsection (10), or
  - (b) if only one conventional oil and gas facility remains in the aggregate facility.
- (12) The revocation of a designation of a group of conventional oil and gas facilities as an aggregate facility may only be made effective at the end of the day on December 31 of a year.
- (13) The director shall notify the person responsible for an aggregate facility in writing of the director's decision as to whether to revoke the designation of the group of conventional oil and gas facilities as an aggregate facility.
- (14) The person responsible for an aggregate facility that has been notified that the designation of the group of conventional oil and gas facilities as an aggregate facility has been revoked shall submit the compliance report for the last year that the designation was in effect on or before June 30 of the following year.

## **Benchmarks**

### **High-performance benchmarks**

- 6(1)** Subject to subsection (2), a product listed in the Table in Schedule 2 has the respective high-performance benchmark and benchmark unit listed in the Table in Schedule 2.
- (2)** The Minister may, by order,
- (a) establish a high-performance benchmark and benchmark unit for a product not listed in the Table in Schedule 2, or
  - (b) in the case of a product that is listed in the Table in Schedule 2, substitute a high-performance benchmark and benchmark unit in place of the high-performance benchmark and benchmark unit listed in the Table.
- (3)** An order under subsection (2) must be published on a publicly accessible page on the department's website.

### **Facility-specific benchmarks**

- 7(1)** If the director considers it appropriate to do so, the director may, on the director's own initiative or on the application of the person responsible for a regulated facility under subsection (2),
- (a) assign a facility-specific benchmark and benchmark unit for a product of a regulated facility and specify the year for which the facility-specific benchmark and benchmark unit is applicable, or
  - (b) subject to subsection (6), at any time review a facility-specific benchmark and benchmark unit for a product of a regulated facility and assign a new facility-specific benchmark and benchmark unit for the product and specify the year for which the facility-specific benchmark and benchmark unit is applicable.
- (2)** The person responsible for a regulated facility may apply to the director
- (a) for the assignment of a facility-specific benchmark and benchmark unit for a product of the regulated facility that does not have a facility-specific benchmark on or before September 1 of the year in which the person responsible first wants to use a facility-specific benchmark

and benchmark unit for the product in determining the allowable emissions for the regulated facility, or

- (b) for the review of a facility-specific benchmark and benchmark unit for a product of the regulated facility and the assignment of a new facility-specific benchmark and benchmark unit for the product on or before September 1 of the year in which the person responsible first wants to use a new facility-specific benchmark or benchmark unit for the product in determining the allowable emissions for the regulated facility.

(3) An application under subsection (2) must

- (a) be submitted in the form and manner prescribed by the director,
- (b) include the information required by the director, and
- (c) be verified by a third party assurance provider as required by the director.

(4) The person responsible for a regulated facility shall comply with the rules and other requirements set out in Part 1 of the Standard for Developing Benchmarks in preparing and submitting an application for

- (a) the assignment of a facility-specific benchmark and benchmark unit, or
- (b) the review of a facility-specific benchmark and benchmark unit and the assignment of a new facility-specific benchmark and benchmark unit.

(5) A third party assurance provider shall comply with the rules and other requirements set out in Part 1 of the Standard for Validation, Verification and Audit in providing a verification referred to in subsection (3)(c).

(6) The director shall not review a facility-specific benchmark for a product of a regulated facility and assign a new facility-specific benchmark for the product unless the director is of the opinion that

- (a) the facility-specific benchmark may be inaccurate,
- (b) the regulated facility has undergone a significant expansion or significant change,
- (c) the product has significantly changed, or
- (d) production of the product by the regulated facility has decreased significantly and the decrease is attributable to the provisions of
  - (i) an enactment of Alberta, other than the Act or this or another regulation under the Act, or
  - (ii) an enactment of Canada or any other province or territory of Canada.

(7) Each facility-specific benchmark for a product of a regulated facility must be determined in accordance with the Standard for Developing Benchmarks.

(8) In assigning a facility-specific benchmark for a product of a regulated facility, the director may specify that a product of the facility that would otherwise have a high-performance benchmark is included in the product for which the facility-specific benchmark is assigned and that, accordingly, the high-performance benchmark for the product does not apply.

(9) The director shall give the person responsible for a regulated facility written notice of the facility-specific benchmarks and benchmark units for the products of the regulated facility.

#### **Compliance cost containment allocation benchmarks**

**8(1)** Subject to subsection (4), if a cost containment designation is in effect for a large emitter or opted-in facility for a year, the director may

- (a) on the application of the person responsible for the large emitter or opted-in facility under subsection (2), assign a compliance cost containment allocation benchmark for the year for

any product, except electricity, of the large emitter or opted-in facility that has a high-performance benchmark or facility-specific benchmark for the year, or

- (b) subject to subsection (5), on the director's own initiative or on the application of the person responsible for the large emitter or opted-in facility, at any time review a compliance cost containment allocation benchmark for a product of a large emitter or opted-in facility and assign a new compliance cost containment allocation benchmark for the product and specify the year for which the compliance cost containment allocation benchmark is applicable.

(2) The person responsible for a large emitter or opted-in facility that is applying for a cost containment designation or in respect of which a cost containment designation is in effect may apply to the director

- (a) to receive a compliance cost containment allocation benchmark for a product of the large emitter or opted-in facility for a year that the cost containment designation is being applied for or is in effect, or
- (b) for a review of a compliance cost containment allocation benchmark.

(3) An application under subsection (2) must

- (a) be submitted in the form and manner prescribed by the director,
- (b) contain the information required by the director, and
- (c) be submitted on or before March 31 of the year following the year in which the person responsible wants to use a compliance cost containment allocation benchmark for the product in determining the allowable emissions for the large emitter or opted-in facility.

(4) The director may assign a compliance cost containment allocation benchmark for a product of a large emitter or opted-in facility for a year only if

- (a) the person responsible for the large emitter or opted-in facility is likely to experience economic hardship in the year attributable to the compliance costs incurred in respect of the large emitter or opted-in facility after taking into account the combined effects of
  - (i) the operation of [section 13\(11\)](#) in respect of the large emitter or opted-in facility,
  - (ii) the total amount of any benefits that have been, are being or will be provided in respect of the year to the person responsible for the large emitter or opted-in facility in respect of the large emitter or opted-in facility under an initiative of the Government of Alberta, or an agency of the Government of Alberta, that are funded out of the Fund, and
  - (iii) any compliance cost containment allocation benchmarks the director has assigned or is considering assigning for other products of the large emitter or opted-in facility for the year,

and

- (b) the director is satisfied that the product constitutes a significant portion of the total production of the large emitter or opted-in facility or is otherwise fundamental to the continued operation of the large emitter or opted-in facility.

(5) The director shall review a compliance cost allocation benchmark for a product of a large emitter or opted-in facility and may assign a new compliance cost containment allocation benchmark for the product if the director is of the opinion that there is a discrepancy between the data on which the compliance cost containment allocation benchmark was based and the compliance report for the year.

(6) Each compliance cost containment allocation benchmark for a product of a facility must be determined in accordance with the Standard for Developing Benchmarks.

## Allowable Emissions

### Large emitters and opted-in facilities — allowable emissions

**9(1)** Subject to subsections (2) and (3), the quantity of allowable emissions, expressed in CO<sub>2</sub>e tonnes, for a large emitter or opted-in facility for a year is determined in accordance with the following formula:

$$AE = \sum_{i=1} (AR_{i-Y} \times P_i) - ((BHP_{E-Y} \times I_E) + (BHP_{Hy-Y} \times I_{Hy}) + (BHP_{He-Y} \times I_{He}))$$

where

AE is the quantity of allowable emissions, expressed in CO<sub>2</sub>e tonnes, for the large emitter or opted-in facility for the year;

AR<sub>i-Y</sub> is the allocation rate for year Y for each product i as determined in accordance with [section 11](#);

i is each product of the large emitter or opted-in facility that has an allocation rate;

Y is the year;

P<sub>i</sub> is the production of each product i for the large emitter or opted-in facility for the year;

BHP<sub>E-Y</sub> is the high-performance benchmark for year Y for electricity;

I<sub>E</sub> is the electricity that is imported by the large emitter or opted-in facility, expressed in megawatt hours, during the year;

BHP<sub>Hy-Y</sub> is the high-performance benchmark for year Y for hydrogen;

I<sub>Hy</sub>

(a) in the case of a large emitter or opted-in facility producing a product with a benchmark unit of Alberta complexity weighted barrel is zero, and

(b) in the case of any other large emitter or opted-in facility is the quantity of hydrogen, expressed in tonnes, that is imported by the large emitter or opted-in facility during the year;

BHP<sub>He-Y</sub> is the high-performance benchmark for year Y for industrial heat;

I<sub>He</sub> is the quantity of heat, expressed in gigajoules, that is imported by the large emitter or opted-in facility during the year.

**(2)** If the director has assigned a compliance cost containment allocation benchmark for a product of a large emitter or opted-in facility for which a cost containment designation is in effect, the formula in subsection (1) shall be read as follows with respect to the year for which the compliance cost containment allocation benchmark is assigned:

$$AE = \sum_{i=1} (AR_{i-Y} \times P_i) - ((BHP_{E-Y} \times I_E) + (BHP_{Hy-Y} \times I_{Hy}) + (BHP_{He-Y} \times I_{He})) + \sum_{j=1} (BCCA_{j-Y} \times P_j)$$

where

each term that is given a meaning in subsection (1) has that meaning;

$BCCA_{j-Y}$  is the compliance cost containment allocation benchmark for year Y for each product j;

j is each product of the large emitter or opted-in facility that has a compliance cost containment allocation benchmark for year Y;

$P_j$  is the production of each product j for the large emitter or opted-in facility for year Y.

(3) If the quantity determined under subsection (1) or (2) for a year is less than zero, the large emitter or opted-in facility has zero allowable emissions for the year.

#### **Aggregate facilities — allowable emissions**

10(1) Subject to subsection (2), the quantity of allowable emissions, expressed in CO<sub>2e</sub> tonnes, for an aggregate facility for a year is determined in accordance with the following formula:

$$AE = \sum_{i=1} (AR_{i-Y} \times P_i)$$

where

AE is the quantity of allowable emissions, expressed in CO<sub>2e</sub> tonnes, for the aggregate facility for the year;

$AR_{i-Y}$  is the allocation rate for year Y for each product i as determined in accordance with [section 11](#);

i is each product of the aggregate facility that has an allocation rate;

Y is the year;

$P_i$  is the production of each product i for the aggregate facility for the year.

(2) If the quantity determined under subsection (1) for a year is less than zero, the aggregate facility has zero allowable emissions for the year.

#### **Allocation rate**

11 For the purposes of [sections 9](#) and [10](#), the allocation rate for a product of a regulated facility for a year is the greater of

(a) the high-performance benchmark for the product for the year, and

(b) the facility-specific benchmark for the product for the year.

#### **Duty to not exceed allowable emissions**

12(1) The person responsible for a large emitter or opted-in facility, other than an electricity facility, that is in its 3rd or subsequent year of commercial operation shall comply with the requirement that the net emissions for the large emitter or opted-in facility for a year shall not exceed the allowable emissions for the large emitter or opted-in facility for the year.

(2) The person responsible for an aggregate facility shall comply with the requirement that the net emissions for the aggregate facility for a year shall not exceed the allowable emissions for the aggregate facility for the year.

(3) The person responsible for an electricity facility shall comply with the requirement that the net emissions for the electricity facility for a year shall not exceed the allowable emissions for the electricity facility for the year.

#### **Net emissions**

13(1) In this section,

(a) “Class III well” means a well that is classified as a Class III well under Directive 051: Injection and Disposal Wells — Well Classifications, Completions, Logging, and Testing Requirements, published by the Alberta Energy Regulator, as amended from time to time;

(b) “raw gas” means raw gas as defined in the *Oil and Gas Conservation Act*.

(2) For the purposes of section 12, the quantity of net emissions, expressed in CO<sub>2</sub>e tonnes, for a regulated facility for a year is determined in accordance with the following formula:

$$NE = TRE - (EO + EPC + FC)$$

where

NE is the quantity of net emissions, expressed in CO<sub>2</sub>e tonnes, for the regulated facility for the year;

TRE is the quantity of total regulated emissions determined in accordance with subsection (3) or (4), whichever applies;

EO is the quantity of specified gases, expressed in CO<sub>2</sub>e tonnes, represented by the emission offsets used for the year, in accordance with the rules set out in this section, by the person responsible for the regulated facility;

EPC is the quantity of specified gases, expressed in CO<sub>2</sub>e tonnes, represented by the emission performance credits used for the year, in accordance with the rules set out in this section, by the person responsible for the regulated facility;

FC is the quantity of specified gases, expressed in CO<sub>2</sub>e tonnes, represented by the fund credits used for the year, in accordance with the rules set out in this section, by the person responsible for the regulated facility.

(3) For the purposes of subsection (2), the quantity of total regulated emissions, expressed in CO<sub>2</sub>e tonnes, for a large emitter or opted-in facility for a year is determined in accordance with the following formula:

$$TRE = DE - ICO_2 + ECO_2 + UCO_2$$

where

TRE is the quantity of total regulated emissions, expressed in CO<sub>2</sub>e tonnes, for the large emitter or opted-in facility for the year;

DE is the direct emissions for the large emitter or opted-in facility for the year;

ICO<sub>2</sub> is the quantity of carbon dioxide, expressed in tonnes, imported by the large emitter or opted-in facility during the year from another regulated facility, excluding any carbon dioxide removed from raw gas and disposed of, as an acid gas stream, to an underground formation through a Class III well in a scheme approved under section 39(1)(d) of the *Oil and Gas Conservation Act*;

ECO<sub>2</sub> is the quantity of carbon dioxide, expressed in tonnes, that is exported from the large emitter or opted-in facility during the year, excluding any carbon dioxide removed from raw gas and disposed of, as an acid gas stream, to an underground formation through a Class III well in a scheme approved under section 39(1)(d) of the *Oil and Gas Conservation Act*;

UCO<sub>2</sub> is the quantity of carbon dioxide, expressed in tonnes, used by the large emitter or opted-in facility as feedstock for the production of urea during the year.

(4) For the purposes of subsection (2), the quantity of total regulated emissions for an aggregate facility, expressed in CO<sub>2</sub>e tonnes, for a year is determined in accordance with the following formula:

$$TRE = E_{SFC} + ECO_{2A}$$

where

TRE is the quantity of total regulated emissions, expressed in CO<sub>2</sub>e tonnes, for the aggregate facility for the year;

E<sub>SFC</sub> is the quantity of specified gas emissions, expressed in CO<sub>2</sub>e tonnes, not including the quantity of biomass CO<sub>2</sub> emissions, resulting from the combustion of solid, liquid or gaseous fuel from stationary fuel combustion devices at an aggregate facility for the primary purpose of providing useful heat, or energy, for industrial, commercial or institutional use;

ECO<sub>2</sub>A is the quantity of carbon dioxide, expressed in tonnes, resulting from the combustion of solid, liquid or gaseous fuel from stationary fuel combustion devices at an aggregate facility for the primary purpose of providing useful heat, or energy, for industrial, commercial or institutional use, that is exported from the aggregate facility during the year.

(5) The person responsible for a regulated facility shall comply with the following rules in using an emission offset in determining the net emissions for the regulated facility under this section:

- (a) an emission offset may only be used by the person responsible that holds the emission offset;
- (b) an emission offset may only be used once;
- (c) an emission offset may only be used if it has been verified as required by [section 18\(2\)](#);
- (d) an emission offset serialized on the Alberta Emissions Offset Registry in recognition of a reduction of specified gas emissions or a net sequestration, net geological sequestration or capture of carbon dioxide that occurred in 2014 or a previous year may only be used for 2020 or a previous year;
- (e) an emission offset serialized on the Alberta Emissions Offset Registry in recognition of a reduction of specified gas emissions or a net sequestration, net geological sequestration or capture of carbon dioxide that occurred in 2015 or 2016 may only be used for 2021 or a previous year;
- (f) an emission offset serialized on the Alberta Emissions Offset Registry in recognition of a reduction of specified gas emissions or a net sequestration, net geological sequestration or capture of carbon dioxide that occurred in 2017 or a subsequent year may only be used for a year within the 8-year period after the year in which the reduction of specified gas emissions or net sequestration, net geological sequestration or capture of carbon dioxide occurred.

(6) The person responsible for a regulated facility shall comply with the following rules in using an emission performance credit in determining the net emissions for a regulated facility under this section:

- (a) an emission performance credit created in a year may only be used for a subsequent year;
- (b) an emission performance credit may only be used by the person responsible that holds the emission performance credit;
- (c) an emission performance credit may only be used once;
- (d) an emission performance credit issued in respect of 2014 or a previous year may only be used for 2020 or a previous year;
- (e) an emission performance credit issued in respect of 2015 or 2016 may only be used for 2021 or a previous year;

(f) an emission performance credit issued in respect of 2017 or a subsequent year may only be used for a year within the 8-year period after the year in respect of which the emission performance credit is issued.

(7) The person responsible for a regulated facility shall comply with the following rules in using a fund credit in determining the net emissions for a regulated facility under this section:

(a) a fund credit may only be used once;

(b) unless otherwise authorized by the director in writing, a fund credit obtained on or before June 30 in a year may only be used for the previous year;

(c) unless otherwise authorized by the director in writing, a fund credit obtained after June 30 in a year may only be used for that year;

(d) a fund credit may only be used by the person responsible that obtained the fund credit and may only be used in respect of the regulated facility in respect of which it was obtained.

(8) The person responsible for a regulated facility shall not use an emission offset, emission performance credit or fund credit in determining the net emissions for the regulated facility under this section unless the emission offset or emission performance credit is held by the person responsible on, or the fund credit is obtained by the person responsible on or before,

(a) the date the compliance report with respect to the year is submitted, or

(b) the date by which the compliance report is required to be submitted, in the event that the compliance report is not submitted on or before that date.

(9) Subject to subsection (11), for the purposes of determining the net emissions for a regulated facility for a year under this section, the person responsible for the regulated facility shall not use

(a) emission offsets, and

(b) emission performance credits

for more than a combined maximum of 60% of the true-up obligation for the regulated facility.

(10) Subject to subsection (11), for the purposes of determining the net emissions for a regulated facility for a year under this section, the person responsible for the regulated facility shall not use

(a) emission offsets serialized on the Alberta Emission Offset Registry in recognition of a reduction in specified gas emissions or a net sequestration, net geological sequestration or capture of carbon dioxide that occurred in a year before 2017, and

(b) emission performance credits issued in respect of a year before 2017

for more than a combined maximum of 40% of the true-up obligation for the regulated facility.

(11) Subsections (9) and (10) do not apply to a regulated facility in respect of which a cost containment designation is in effect.

(12) The person responsible for a regulated facility in respect of a year shall determine the net emissions for the year on or before the date on which the compliance report is required to be submitted for that year.

## **Compliance Cost Containment**

### **Cost containment designation**

**14(1)** The person responsible for a large emitter or opted-in facility may apply to the Minister for a cost containment designation in respect of the large emitter or opted-in facility.

**(2)** An application under subsection (1) must

(a) be submitted in the form and manner prescribed by the Minister,

- (b) include financial statements for the large emitter or opted-in facility that have been audited, as provided for by the Standard for Validation, Verification and Audit, by a professional accounting firm registered under the *Chartered Professional Accountants Act* and authorized to perform an audit engagement,
  - (c) include an emissions reduction plan that must
    - (i) be submitted in the form and manner prescribed by the Minister,
    - (ii) include the information required by the Minister, and
    - (iii) be validated by a third party assurance provider,
  - (d) include a statement of the total amount of any benefits that have been, are being or will be provided to the person responsible for the large emitter or opted-in facility in respect of the large emitter or opted-in facility under an initiative of the Government of Alberta or an agency of the Government of Alberta,
  - (e) include any other information required by the Minister,
  - (f) be certified by the person responsible for the large emitter or opted-in facility in the manner required by the Minister, and
  - (g) be received by the Minister on or before March 31 of the year following the first year in respect of which the designation is requested to be effective.
- (3)** The person responsible for a large emitter or opted-in facility shall comply with the rules and other requirements set out in Part 1 of the Standard for Developing Benchmarks in preparing and submitting
- (a) an application for a cost containment designation, and
  - (b) an emissions reduction plan.
- (4)** An auditor shall comply with the rules and other requirements set out in Part 1 of the Standard for Validation, Verification and Audit in providing an audit referred to in subsection (2)(b).
- (5)** A third party assurance provider shall comply with the rules and other requirements set out in Part 1 of the Standard for Validation, Verification and Audit in providing a validation referred to in subsection (2)(c)(iii).
- (6)** The Minister may issue a cost containment designation in respect of a large emitter or opted-in facility to the person responsible for the large emitter or opted-in facility if
- (a) the application meets the requirements under subsection (2),
  - (b) the large emitter or opted-in facility produces a product, other than electricity, that has a high-performance benchmark or a facility-specific benchmark,
  - (c) the person responsible for the large emitter or opted-in facility is likely to experience economic hardship attributable to the compliance costs incurred in respect of the large emitter or opted-in facility for one or more years for which the designation is requested, and
  - (d) implementation of the emissions reduction plan will reduce the emissions intensity with respect to the large emitter or opted-in facility.
- (7)** The Minister may refuse to issue a cost containment designation in respect of a large emitter or opted-in facility to the person responsible for the large emitter or opted-in facility in any of the following circumstances:
- (a) the person responsible for the large emitter or opted-in facility is not in compliance with the Act or the regulations under the Act or any other enactment under the administration of the Minister with respect to the large emitter or opted-in facility;

- (b) the large emitter or opted-in facility is a subject of, or is subject to,
    - (i) receivership, insolvency or bankruptcy actions or proceedings,
    - (ii) proceedings under the *Companies' Creditors Arrangement Act* (Canada), or
    - (iii) seizure, foreclosure, distress or other enforcement actions or proceedings;
  - (c) the total amount of one or more benefits that have been, are being or will be provided to the person responsible for the large emitter or opted-in facility in respect of the large emitter or opted-in facility under an initiative of the Government of Alberta, or an agency of the Government of Alberta, exceeds, or is considered by the Minister to be comparable to, the value of fund credits that would be needed to meet the true-up obligation for the large emitter or opted-in facility for any year for which the person responsible has requested the cost containment designation if only fund credits were used to meet the true-up obligation for that year;
  - (d) a cost containment designation was previously issued in respect of the large emitter or opted-in facility and was revoked under subsection (12)(a), (b), (c) or (d).
- (8)** The Minister may
- (a) impose any terms and conditions the Minister considers appropriate on a cost containment designation,
  - (b) amend a term or condition of, add a term or condition to or delete a term or condition from a cost containment designation, and
  - (c) subject to subsection (12), set out in a cost containment designation the years for which the designation is in effect.
- (9)** The person responsible for a large emitter or opted-in facility in respect of which a cost containment designation has been issued shall comply with the terms and conditions of the cost containment designation.
- (10)** The Minister shall notify the person responsible for a large emitter or opted-in facility in writing of the Minister's decision as to whether to issue a cost containment designation in respect of the large emitter or opted-in facility.
- (11)** A cost containment designation is effective for a period of not more than 5 consecutive years as specified by the Minister, but the person responsible for a large emitter or opted-in facility may, at any time, apply under subsection (1) for another cost containment designation.
- (12)** The Minister may revoke a cost containment designation
- (a) if the person responsible for the large emitter or opted-in facility is not in compliance with the Act or the regulations under the Act or any other enactment under the administration of the Minister with respect to the large emitter or opted-in facility,
  - (b) if the Minister is of the opinion that the person responsible for the large emitter or opted-in facility has not complied with a term or condition of the cost containment designation,
  - (c) if the large emitter or opted-in facility is a subject of, or is subject to,
    - (i) receivership, insolvency or bankruptcy actions or proceedings,
    - (ii) proceedings under the *Companies' Creditors Arrangement Act* (Canada), or
    - (iii) seizure, foreclosure, distress or other enforcement actions or proceedings,
  - (d) if the total amount of one or more benefits that have been, are being or will be provided to the person responsible for the large emitter or opted-in facility in respect of the large emitter or opted-in facility under an initiative of the Government of Alberta, or an agency of the

Government of Alberta, exceeds, or is considered by the Minister to be comparable to, the value of the fund credits that would be needed to meet the true-up obligation for any year for which the cost containment designation is in effect for the large emitter or opted-in facility if

- (i) compliance cost containment allocation benchmarks were not applicable for the large emitter or opted-in facility for that year, and
  - (ii) only fund credits were used to meet the true-up obligation for the large emitter or opted-in facility for that year,
- (e) if it is no longer likely that the person responsible for the large emitter or opted-in facility will experience economic hardship attributable to the compliance costs incurred in respect of the large emitter or opted-in facility, or
- (f) on the request of the person responsible for the large emitter or opted-in facility.
- (13)** The Minister shall notify the person responsible for a large emitter or opted-in facility in writing of the Minister's decision to revoke a cost containment designation issued in respect of the large emitter or opted-in facility.

## Reports

### Compliance report

- 15(1)** The person responsible for a large emitter or opted-in facility, other than an electricity facility, that is in its 3rd or a subsequent year of commercial operation in a year shall submit to the director a compliance report for the large emitter or opted-in facility for a year on or before June 30 of the following year.
- (2)** The person responsible for an aggregate facility shall submit to the director a compliance report for the aggregate facility for each year the aggregate facility is designated as an aggregate facility on or before June 30 of the following year.
- (3)** The person responsible for an electricity facility shall submit to the director a compliance report for the electricity facility for each year the electricity facility is a large emitter or opted-in facility on or before June 30 of the following year.
- (4)** The compliance report must
- (a) be submitted in the form and manner prescribed by the director,
  - (b) include the information required by the director,
  - (c) confirm that the net emissions for the regulated facility for the year do not exceed the allowable emissions for the regulated facility for the year,
  - (d) be certified by the person responsible in the manner required by the director, and
  - (e) be verified by a third party assurance provider.
- (5)** The person responsible for a regulated facility shall comply with the rules and other requirements set out in Part 1 of the Standard for Completing Greenhouse Gas Compliance and Forecasting Reports in preparing and submitting a compliance report for the regulated facility under this section.
- (6)** A third party assurance provider shall comply with the rules and other requirements set out in Part 1 of the Standard for Validation, Verification and Audit in providing a verification referred to in subsection (4)(e).

### Annual forecasting report

- 16(1)** Subject to subsection (2), if a forecasting facility is in its first or a subsequent year of commercial operation in a year, the person responsible for the forecasting facility on September 30 of the year shall, on or before November 30 of the year, submit to the director an annual forecasting report with respect to the facility for the following year.
- (2)** The person responsible for a forecasting facility is not required to submit an annual forecasting report with respect to the forecasting facility under subsection (1) for

- (a) the year following the first year in which the forecasting facility has total regulated emissions of 1 000 000 CO<sub>2</sub>e tonnes or more,
  - (b) the 2nd year following a year in which the forecasting facility has total regulated emissions of less than 1 000 000 CO<sub>2</sub>e tonnes, or
  - (c) the 2nd year following a year in which the true-up obligation of the forecasting facility was less than 50 000 CO<sub>2</sub>e tonnes of specified gas emissions.
- (3)** The annual forecasting report must
- (a) be submitted in the form and manner prescribed by the director,
  - (b) include
    - (i) a forecast of the forecasting facility's total regulated emissions for the following year,
    - (ii) a forecast of the forecasting facility's production of each product that has a high-performance benchmark or a facility-specific benchmark for the following year,
    - (iii) a forecast of the true-up obligation for the forecasting facility for the following year,
    - (iv) the ratio of fund credits to the sum of emission performance credits plus emission offsets that the person responsible will use to meet the facility's true-up obligation for the following year, and
    - (v) any other information required by the director
- and
- (c) be certified by the person responsible in the manner required by the director.
- (4)** The person responsible for a forecasting facility shall submit an updated annual forecasting report on or before March 31 of the year following the year in respect of which the forecasting report was submitted.

**(5)** The person responsible for a forecasting facility shall comply with the rules and other requirements set out in Part 1 of the Standard for Completing Greenhouse Gas Compliance and Forecasting Reports in preparing and submitting an annual forecasting report for the forecasting facility.

**Emissions reduction plan report**

**17(1)** The person responsible for a large emitter, or opted-in facility, in respect of which a cost containment designation has been issued shall submit to the director an emissions reduction plan report for the large emitter or opted-in facility for each year, other than the first year, that the designation is effective on or before June 30 of the following year.

- (2)** An emissions reduction plan report must
- (a) be submitted in the form and manner prescribed by the director,
  - (b) include financial statements for the large emitter or opted-in facility that have been audited by a professional accounting firm that is registered under the *Chartered Professional Accountants Act* and authorized to perform an audit engagement,
  - (c) include a statement of the total amount of any benefits that have been, are being or will be provided to the person responsible for the large emitter or opted-in facility in respect of the large emitter or opted-in facility under an initiative of the Government of Alberta or an agency of the Government of Alberta,
  - (d) include any other information required by the director, and

- (e) be verified by a third party assurance provider on or before June 30 of the year in which it is submitted.
- (3) An emissions reduction plan report may include an updated emissions reduction plan that meets the requirements of [section 14\(2\)\(c\)](#).
- (4) An auditor shall comply with the rules and other requirements set out in Part 1 of the Standard for Validation, Verification and Audit in providing an audit referred to in subsection (2)(b).
- (5) A third party assurance provider shall comply with the rules and other requirements set out in Part 1 of the Standard for Validation, Verification and Audit in providing
  - (a) a validation of an updated emissions reduction plan, or
  - (b) a verification referred to in subsection (2)(e).

### **Part 3**

## **Emission Offsets, Emission Performance Credits and Fund Credits**

#### **Emission offset projects**

- 18(1)** An emission offset project developer shall comply with the rules and other requirements set out in Part 1 of the Standard for Greenhouse Gas Emission Offset Project Developers
- (a) in initiating and implementing an emission offset project, and
  - (b) in registering an emission offset project with the Alberta Emissions Offset Registry.
- (2) An emission offset project developer shall ensure that an emission offset is verified by a third party assurance provider.
- (3) A third party assurance provider shall comply with the rules and other requirements set out in Part 1 of the Standard for Validation, Verification and Audit in verifying an emission offset.

#### **Emission offsets**

- 19(1)** A reduction in specified gas emissions or a net sequestration of carbon dioxide, other than a geological sequestration, must meet the following requirements for the reduction or sequestration to be recognized by one or more emission offsets:
- (a) the reduction or sequestration must occur in Alberta;
  - (b) the reduction or sequestration
    - (i) must result from an action taken that is not required by law at the time the action is taken, and
    - (ii) must not be required by law at the time the reduction or sequestration occurs;
  - (c) the reduction or sequestration must
    - (i) result from an action taken on or after January 1, 2002, and
    - (ii) occur on or after January 1, 2002;
  - (d) the reduction or sequestration must be real and demonstrable;
  - (e) the reduction or sequestration must be quantifiable and measurable, directly or by accurate estimation using replicable techniques;
  - (f) the specified gas emissions that were reduced or the carbon dioxide that was sequestered must not have had an effect on the determination of a regulated facility's total regulated emissions under [section 13\(3\)](#) or (4).

(2) A net geological sequestration of carbon dioxide must meet the following requirements for the net geological sequestration to be recognized by one or more emission offsets:

- (a) the carbon dioxide that is geologically sequestered must be captured through a dedicated process from sources located at a facility in Alberta;
- (b) the carbon dioxide must be stored in a geological formation that is located wholly or partly in Alberta;
- (c) the geological sequestration must not be required by law at the time the geological sequestration occurs;
- (d) the construction of the infrastructure used to geologically sequester the carbon dioxide must have been initiated on or after January 1, 2002;
- (e) the geological sequestration must occur on or after January 1, 2002;
- (f) the geological sequestration must be quantifiable and measurable, directly or by accurate estimation using replicable techniques;
- (g) the carbon dioxide that was sequestered must not have had an effect on the determination of a regulated facility's total regulated emissions under [section 13\(3\)](#) or [\(4\)](#);
- (h) the geological sequestration of the carbon dioxide must be permanent.

(3) A capture of carbon dioxide must meet the following requirements for the capture to be recognized by one or more emission offsets:

- (a) the carbon dioxide must be captured through a dedicated process from sources located at a facility upgrading or refining bitumen in Alberta;
- (b) the capture must not be required by law at the time the capture occurs;
- (c) the construction of the infrastructure used to capture the carbon dioxide must have been initiated on or after January 1, 2012 and the infrastructure must have been used to capture carbon dioxide on or before December 31, 2015;
- (d) the carbon dioxide must be
  - (i) captured by infrastructure capable of capturing, and
  - (ii) stored in geological formations capable of storing  
1 000 000 tonnes of carbon dioxide per year;
- (e) at least 51% of the volume of carbon dioxide captured through the dedicated process from sources located at a facility upgrading or refining bitumen in Alberta in a year must be sequestered in a geological formation in respect of which a pore space tenure agreement has been entered into with the Government of Alberta on or after January 1, 2011;
- (f) the capture must be quantifiable and measurable, directly or by accurate estimation using replicable techniques;
- (g) the captured carbon dioxide must be geologically sequestered in accordance with subsection (2) on or before August 22, 2025;
- (h) the amount of money established under [section 21\(2\)](#) must be less than \$80 at the time the captured carbon dioxide is geologically sequestered.

(4) Each

- (a) one CO<sub>2</sub>e tonne reduction in specified gas emissions, or net sequestration of one tonne of carbon dioxide, that meets the requirements of subsection (1), or
- (b) net geological sequestration of one tonne of carbon dioxide that meets the requirements of subsection (2)

may be recognized by the serialization of one emission offset.

(5) Each capture of carbon dioxide that meets the requirements of subsection (3) may be recognized by the serialization of the number of emission offsets determined as follows:

- (a) if the amount of money established under [section 21\(2\)](#) is equal to or less than \$40 at the time that the captured carbon dioxide is geologically sequestered, the number of emission offsets is calculated in accordance with the following formula:

$$N = A \times 1$$

where

N is the number of emission offsets;

A is equal to the number of emission offsets that recognize the net geological sequestration of the number of tonnes of carbon dioxide that meets the requirements of subsection (2);

- (b) if the amount of money established under [section 21\(2\)](#) is more than \$40 but less than \$80 at the time that the captured carbon dioxide is geologically sequestered, the number of emission offsets is calculated in accordance with the following formula:

$$N = A \times \frac{(80 - B)}{40}$$

where

N is the number of emission offsets;

A is equal to the number of emission offsets that recognize the net geological sequestration of the number of tonnes of carbon dioxide that meets the requirements of subsection (2);

B equals the amount of money established under [section 21\(2\)](#).

(6) One emission offset represents one CO<sub>2</sub>e tonne.

#### **Emission performance credits**

**20(1)** Subject to subsection (4), if the total regulated emissions of a regulated facility in a year are less than the allowable emissions for the regulated facility for the year, the director may issue one or more emission performance credits to the person responsible for the regulated facility.

(2) The number of emission performance credits that may be issued under subsection (1) must be determined in accordance with the following formula:

$$EPC = AE - TRE$$

where

EPC is the number of emission performance credits that may be issued under subsection (1);

AE is the quantity of allowable emissions for the regulated facility for the year;

TRE is the quantity of total regulated emissions for the regulated facility for the year.

(3) One emission performance credit represents one CO<sub>2</sub>e tonne.

(4) The director shall not issue emission performance credits to the person responsible for a large emitter or opted-in facility in respect of any year for which a compliance cost containment allocation benchmark has been assigned for a product of the large emitter or opted-in facility.

**Fund credits**

**21(1)** A person responsible may obtain fund credits by contributing money to the Fund.

(2) The Minister may, by order, establish the amount of money that a person responsible must contribute to the Fund to obtain one fund credit for a year.

(3) One fund credit represents one CO<sub>2</sub>e tonne.

**Cancellation of and nature of emission offsets, emission performance credits and fund credits**

**22(1)** In this section, “former regulation” means

(a) the *Carbon Competitiveness Incentive Regulation (AR 255/2017)* (repealed), or

(b) the *Specified Gas Emitters Regulation (AR 139/2007)* (expired).

(2) Without limiting subsection (6) or (7), the director may cancel, or direct the cancellation of, an emission offset serialized on the Alberta Emissions Offset Registry if, in the opinion of the director,

(a) the reduction in specified gas emissions or the sequestration, geological sequestration or capture of carbon dioxide recognized by the emission offset did not meet the applicable requirements under this Regulation or a former regulation,

(b) the serialization of the emission offset was based on incorrect, false or inaccurate information, or

(c) the emission offset is otherwise invalid, as determined in accordance with Part 1 of the Standard for Greenhouse Gas Emission Offset Project Developers.

(3) Without limiting subsection (6) or (7), the director may cancel an emission performance credit, or direct the cancellation of an emission performance credit, if, in the opinion of the director, the issuance of the emission performance credit was based on incorrect, false or inaccurate information.

(4) The director shall give notice of a cancellation or direction under subsection (2) or (3)

(a) in the case of an emission offset

(i) to the administrator of the Alberta Emissions Offset Registry,

(ii) to the emission offset project developer,

(iii) if the emission offset is held by the person responsible for a facility or has been used, as described in subsection (5), by a person responsible for a facility, to that person responsible, and

(iv) if the emissions offset is held by a person other than the emission offset project developer or a person responsible for a facility, to that person,

or

(b) in the case of an emission performance credit

(i) to the person responsible for the regulated facility in respect of which the emission performance credit was issued,

(ii) if the emission performance credit is held by the person responsible for a different facility or has been used, as described in subsection (5), by a person responsible for a different facility, to that person responsible, and

(iii) if the emission performance credit is held by a person other than a person responsible for a facility, to that person.

(5) If the person responsible for a regulated facility has used an emission offset or emission performance credit that is cancelled under this section in complying with section 12 of this Regulation, section 6(1), (2) or (3) of the former regulation referred to in subsection (1)(a) or section 6(2) of the former regulation referred to in subsection (1)(b), the person responsible shall, within 60 days after receiving notice of the cancellation or direction, do one of the following:

- (a) pay into the Fund an amount equal to the amount the person responsible would have had to contribute to obtain one fund credit for the year the emission offset or emission performance credit was used;
- (b) use another emission offset in place of the cancelled emission offset or emission performance credit, but the person responsible may only do so if the person responsible held the emission offset at the time the cancelled emission offset or emission performance credit was used and has continued to hold the emission offset since that time;
- (c) use another emission performance credit held by the person responsible in place of the cancelled emission offset or emission performance credit, but the person responsible may only do so if the person responsible held the emission performance credit at the time the cancelled emission offset or emission performance credit was used and has continued to hold the emission offset since that time.

(6) For greater certainty, an emission offset, an emission performance credit or a fund credit is a revocable licence authorizing the person responsible for a regulated facility to use the emission offset, emission performance credit or fund credit in determining the net emissions for the regulated facility in accordance with this Regulation.

(7) Nothing in this Regulation

- (a) ensures or guarantees the availability of emission offsets or emission performance credits,
- (b) ensures, guarantees or gives a person a right or an entitlement to an emission offset or emission performance credit,
- (c) ensures, guarantees or gives a person a right or an entitlement to generate an emission offset or to be issued an emission performance credit, or
- (d) ensures, guarantees or gives a person responsible for a regulated facility a right or an entitlement to use an emission offset or emission performance credit in determining the net emissions for a regulated facility.

## **Part 4 General**

### **Administration**

#### **Powers of Minister and director**

**23(1)** The Minister or director may, at any time, do one or more of the following:

- (a) require a person responsible or emission offset project developer to provide additional information;
- (b) require an audit or further audit of any financial statements contained in an application or report;
- (c) require validation or further validation by a third party assurance provider of any information;
- (d) require verification or further verification by a third party assurance provider of any information;

- (e) require a person responsible or emission offset project developer to resubmit an application, report or information in accordance with any directions that the Minister or director considers necessary;
  - (f) collect any additional information that the Minister or director considers necessary;
  - (g) conduct any review that the Minister or director considers necessary.
- (2) If an action taken under subsection (1) relates directly to emission offsets or emission performance credits, the Minister or director may direct that the emission offsets or emission performance credits must not be used or transferred until the Minister or director directs otherwise.
- (3) The director may from time to time require the person responsible for a regulated facility to implement new or additional measurements, metering or monitoring for the purpose of determining the allowable emissions for the regulated facility under [section 9](#) or [10](#) or the net emissions for the regulated facility under [section 13](#).
- (4) The director may prescribe forms for the purposes of this Regulation.

#### **Exemptions**

**24** The director may, on application, exempt the person responsible for a large emitter or opted-in facility from one or more of the duties imposed on persons responsible under Part 2, subject to any terms or conditions the director considers appropriate, for a period not exceeding one year if the director is of the opinion that

- (a) the large emitter or opted-in facility was operated under unusual conditions for a lengthy period or underwent a lengthy shutdown, and
- (b) the unusual conditions or shutdown caused a material reduction in the specified gas emissions of the large emitter or opted-in facility during the period or shutdown.

#### **Duty to notify director**

**25(1)** The person responsible for a large emitter or opted-in facility shall notify the director as soon as practicable of a change in the person responsible for the large emitter or opted-in facility.

(2) The person responsible for an aggregate facility shall notify the director as soon as practicable

- (a) of any change in the person responsible
  - (i) for the aggregate facility, or
  - (ii) for a conventional oil and gas facility that is part of the aggregate facility,
- (b) if a conventional oil and gas facility that is part of the aggregate facility has direct emissions of 100 000 CO<sub>2</sub>e tonnes or more in a year, or
- (c) if a conventional oil and gas facility that is part of the aggregate facility is decommissioned.

#### **Duty to comply**

**26(1)** A person responsible for a facility shall

- (a) comply with a requirement imposed on the person responsible under [section 23\(1\)\(a\)](#) to (e),
- (b) provide any information under the control of the person responsible on request of the Minister or director under [section 23\(1\)\(f\)](#),
- (c) cooperate with any review referred to in [section 23\(1\)\(g\)](#),
- (d) comply with a direction given under [section 23\(2\)](#), and
- (e) comply with the applicable duties set out in [section 25](#).

(2) An auditor shall comply with the rules and other requirements set out in Part 1 of the Standard for Validation, Verification and Audit in providing an audit referred to in [section 23\(1\)\(b\)](#).

(3) A third party assurance provider shall comply with the rules and other requirements set out in Part 1 of the Standard for Validation, Verification and Audit in providing

(a) a validation referred to in [section 23\(1\)\(c\)](#), or

(b) a verification referred to in [section 23\(1\)\(d\)](#).

(4) An emission offset project developer shall

(a) comply with a requirement imposed under [section 23\(1\)\(a\)](#), (d) or (e),

(b) provide any information under the control of the emission offset project developer on request of the Minister or director under [section 23\(1\)\(f\)](#),

(c) comply with a direction given under [section 23\(2\)](#), and

(d) cooperate with any review referred to in [section 23\(1\)\(g\)](#).

#### **Third party assurance providers**

**27(1)** In this section, “ISO Standard 14065:2013” means the standard ISO 14065:2013 entitled Greenhouse gases — Requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition, published by the International Organization for Standardization, as amended or replaced from time to time.

(2) A person is eligible to be a third party assurance provider if

(a) the person is a verification body that is accredited as a verification body to the ISO Standard 14065:2013 by the Standards Council of Canada, the American National Standards Institute or any other accreditation organization that is a member of the International Accreditation Forum, and

(b) the person has any other qualifications specified by the director.

(3) Until June 30, 2023, a person who does not meet the requirements of subsection (2) is eligible to be a third party assurance provider if

(a) the person has technical knowledge of specified gas emission quantification methodologies, verification practices and any other matters considered relevant by the director and is registered as

(i) a professional engineer under the *Engineering and Geoscience Professions Act*,

(ii) a chartered professional accountant under the *Chartered Professional Accountants Act*, or

(iii) a member of a profession in another province or territory of Canada that has substantially similar competence and practice requirements as a profession referred to in subclause (i) or (ii),

and

(b) the person has any other qualifications specified by the director.

(4) Subsection (3) expires on June 30, 2023.

(5) A person is not eligible to be a third party assurance provider for a facility if the person

(a) is the person responsible for the facility or is a director, officer or employee of the person responsible for the facility or of an affiliate, within the meaning of section 2 of the *Business Corporations Act*, of the person responsible, or

(b) is an employee or agent of the Government of Alberta.

(6) The director may request any information the director considers relevant from a person or the person responsible for a facility to determine whether or not the person is eligible to perform the functions of a third party assurance provider generally or in a particular case.

## Records

### Request for confidentiality

**28(1)** The person responsible for a facility may in respect of information provided to the Government under this Regulation, including, without limitation, an application under this Regulation, an emissions reduction plan, a compliance report, annual forecasting report, emissions reduction plan report, verification validation, audit or information provided under [section 23](#), submit a written request that certain information be kept confidential for a period of 5 years after the date the information is submitted or provided on the basis that the information is commercial, financial, scientific or technical information that would reveal proprietary business, competitive or trade secret information about a specific facility, technology or corporate initiative.

(2) The director shall have regard to the following when making a decision on a request for confidentiality under subsection (1):

- (a) whether disclosure of the information could reasonably be expected to harm significantly the competitive position of the person responsible;
- (b) whether disclosure of the information could reasonably be expected to interfere significantly with the negotiating position of the person responsible;
- (c) whether disclosure of the information could reasonably be expected to result in undue financial loss or gain to any person or organization;
- (d) the availability of the information or the means to obtain the information from other public sources;
- (e) whether there are any other competing interests that would suggest that disclosure of the information is warranted.

(3) The director may require the person responsible to provide additional reasons, in writing, in support of the request for confidentiality under subsection (1).

(4) The director shall,

- (a) if the director considers that the request for confidentiality is well founded, approve the request and order that some or all of the information to which the request relates be kept confidential and not be disclosed for 5 years after the date the information was submitted or provided, or
- (b) if the director considers that the request for confidentiality is not well founded, refuse the request.

(5) The director shall, in writing, notify the person responsible of the director's decision under subsection (4) within 150 days after receiving the request for confidentiality.

(6) Where the director is considering a request for confidentiality under this section, the information to which the request relates is prescribed as a class of prescribed information for the purposes of [section 59](#) of the [Act](#) until a decision is made.

(7) Where the director makes an order under subsection (4)(a), the information that is the subject of the order is prescribed as a class of prescribed information for the purposes of [section 59](#) of the [Act](#).

(8) The director shall provide annually to the Information and Privacy Commissioner, in the form and manner the director considers appropriate, a report setting out the following:

- (a) the number of requests received by the director under subsection (1) in the year;
- (b) the number of requests approved by the director under subsection (4)(a) in the year.

### Access to applications and reports

**29(1)** Subject to subsections (2) and (3), within a reasonable time after receiving a request in writing for a copy of an application for the assignment of a facility-specific benchmark or a compliance report, the director shall provide a copy of the application or report free of charge to the person requesting it.

**(2)** The director is not required to provide a copy of an application or report under subsection (1) unless the director is satisfied that the person making the request has first made a request to obtain a copy of the application or report from the appropriate person responsible and that the request was refused or was not satisfied within 30 days after the date of the request.

**(3)** Subsection (1) does not apply with respect to

- (a) prescribed information as defined in [section 59](#) of the [Act](#), or
- (b) information pertaining to a matter that is the subject of enforcement proceedings under the [Act](#) or this Regulation.

#### **Publication**

**30** Subject to [section 59](#) of the [Act](#), the director may, in any form and manner the director considers appropriate, publish

- (a) an application for the assignment of a facility-specific benchmark, or
- (b) a compliance report.

#### **Record retention**

**31(1)** The person responsible for a facility that is or was a regulated facility shall retain

- (a) all records and information respecting the direct emissions and production of the facility for the period that the facility is a regulated facility for at least 7 years after the date on which the records or information are created,
- (b) a copy of each application for the assignment of a facility-specific benchmark for the facility together with the records and information on which the application was based for at least 7 years after the year in which the facility-specific benchmark that was assigned on the basis of the application ceases to be a facility-specific benchmark for the facility,
- (c) a copy of each compliance report submitted in respect of the facility together with the records and information on which the compliance report was based for at least 7 years after the year in which the compliance report was submitted, and
- (d) a copy of any information provided under [section 23](#) for at least 7 years after the year in which the information was provided.

**(2)** In addition to complying with subsection (1), the person responsible for a facility that is or was a forecasting facility shall retain a copy of each annual forecasting report submitted in respect of the facility together with the records and information on which the annual forecasting report was based for 7 years after the year in which the annual forecasting report was submitted.

**(3)** In addition to complying with subsection (1), the person responsible for a facility that is or was an opted-in facility shall retain

- (a) a copy of the application for the facility to be designated as an opted-in facility together with the records and information on which the application was based for at least 7 years after the year in which the application was made, and
- (b) a copy of any application for the designation of the facility as an opted-in facility to be revoked together with the records and information on which the application was based for at least 7 years after the year in which the application was made.

**(4)** In addition to complying with subsection (1), the person responsible for a facility that is or was an aggregate facility shall retain

- (a) a copy of the application for the group of facilities to be designated as an aggregate facility and for any amendment of the designation together with the records and information on which the application was based for at least 7 years after the year in which the application was made, and
  - (b) a copy of any application for the designation of the group of facilities as an aggregate facility to be revoked together with the records and information on which the application was based for at least 7 years after the year in which the application was made.
- (5) In addition to complying with subsection (1), the person responsible for a facility that is or was a large emitter or opted-in facility in respect of which a cost containment designation has been made shall retain
- (a) a copy of the application for the cost containment designation together with the records and information on which the application was based for at least 7 years after the year in which the application was made,
  - (b) a copy of any application for the cost containment designation to be revoked together with the records and information on which the application was based for at least 7 years after the year in which the application was made,
  - (c) a copy of each emissions reduction plan of the large emitter or opted-in facility together with the records and information on which the emissions reduction plan was based for at least 7 years after the year in which the emissions reduction plan was submitted,
  - (d) a copy of each emissions reduction plan report submitted in respect of the large emitter or opted-in facility together with the records and information on which the emissions reduction plan report was based for at least 7 years after the year in which the emissions reduction plan report was submitted, and
  - (e) a copy of each application for a compliance cost containment allocation benchmark for a product of the large emitter or opted-in facility together with the records and information on which the application was based for at least 7 years after the year in which the application was made.
- (6) An emission offset project developer, or former emission offset project developer, shall retain all records and information associated with an emission offset until the later of
- (a) 7 years after the day on which the emission offset is used by a person responsible for a regulated facility to meet the allowable emissions for the regulated facility,
  - (b) 8 years after the day on which the emission offset is serialized on the Alberta Emissions Offset Registry, and
  - (c) the day on which the emission offset may no longer be used under [section 13](#).
- (7) Applications, records, reports and information required to be retained under this section must be retained
- (a) at the head or principal office, in Alberta, of the person responsible or the emission offset project developer or former emission offset project developer, as the case may be, or
  - (b) at the facility or the location of the emission offset project to which they relate.

## **Enforcement**

### **Audits**

**32** An inspector or investigator may undertake an audit of a person responsible, a facility, an emission offset project developer, an emission offset project, a third party assurance provider or an auditor to verify the accuracy of information required to be provided by the Act or this Regulation.

### **Offences**

**33** A person who

- (a) contravenes [section 12\(1\), \(2\) or \(3\)](#),
- (b) contravenes any of the following sections:
  - 4(10);
  - 5(14);
  - 7(4) or (5);
  - 13(5), (6), (7), (8), (9), (10) or (12);
  - 14(3), (4), (5) or (9);
  - 15(1), (2), (3), (5) or (6);
  - 16(1), (4) or (5);
  - 18(1), (2) or (3);
  - 22(5);
  - 25(1) or (2);
  - 26(1), (2), (3) or (4);
  - 31(1), (2), (3), (4), (5) or (6),
- (c) submits a compliance report that is not in compliance with [section 15\(4\)](#),
- (d) submits an annual forecasting report that is not in compliance with [section 16\(3\)](#),
- (e) submits an emissions reduction plan report that is not in compliance with [section 17\(2\)](#),
- (f) performs the functions of a third party assurance provider and does not have the qualifications referred to in, or is not eligible to be a third party assurance provider under, [section 27](#),
- (g) retains a person as a third party assurance provider who does not have the qualifications referred to in, or is not eligible to be a third party assurance provider under, [section 27](#), or
- (h) does not comply with [section 31\(7\)](#) in retaining applications, records, reports or information,

is guilty of an offence.

**Penalties**

**34(1)** A person who is guilty of an offence under [section 33\(a\)](#) is liable to a fine of not more than \$200 for every tonne of specified gas, expressed in CO<sub>2</sub>e tonnes, by which the net emissions for the regulated facility exceeds the allowable emissions for the facility.

**(2)** A person who is guilty of an offence under [section 33\(b\), \(c\), \(d\), \(e\), \(f\), \(g\) or \(h\)](#) is liable,

- (a) in the case of an individual, to a fine of not more than \$50 000, or
- (b) in the case of a corporation, to a fine of not more than \$500 000.

**Due diligence**

**35** No person shall be convicted of an offence under this Regulation if that person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

**Transitional, Consequential Amendments, Repeal,  
Review and Expiry and Coming into Force**

**Transitional**

**36(1)** In this section, “former regulation” means the *Carbon Competitiveness Incentive Regulation (AR 255/2017)* (repealed).

**(2)** A designation of a facility as an opted-in facility under the former regulation that is in effect immediately before this section comes into force is deemed to be a designation of the facility as an opted-in facility under [section 4](#).

- (3) A cost containment designation in respect of a facility under the former regulation is not a cost containment designation under this Regulation.
- (4) Notwithstanding section 4(3)(c), in the case of an application under section 4(2) for a facility to be designated as an opted-in facility for 2020, the application must be received by the director on or before September 1, 2020.
- (5) Notwithstanding section 4(7)(c), in the case of an application under section 4(6) for the designation of a facility as an opted-in facility to be revoked for 2020, the application must be received by the director on or before December 1, 2019.
- (6) Notwithstanding section 5(2)(c), in the case of an application under section 5(1) for a group of 2 or more conventional oil and gas facilities to be designated as an aggregate facility for 2020, the application must be received by the director on or before September 1, 2020.
- (7) Sections 12(3) and 15(3) do not apply to the person responsible for an electricity facility that is in its 2nd or prior year of commercial operation in 2020, 2021 or 2022 until the earlier of
- (a) the year in which the electricity facility is in its 3rd year of commercial operation, and
  - (b) 2023.
- (8) For greater certainty, the person responsible for a facility to which the former regulation applies shall submit the compliance report for 2019 under the former regulation on or before March 31, 2020.
- (9) For greater certainty, the person responsible for a facility for which a cost containment designation is in effect for 2019 under the former regulation shall submit the emissions reduction plan report for 2019 under the former regulation on or before March 31, 2020.

#### Consequential amendments

**37(1) The *Administrative Penalty Regulation (AR 140/2007)* is amended in the Schedule**

- (a) **repealing sections 1.1 and 2;**
- (b) **by adding the following after section 3:**

**4 *Technology Innovation and Emissions Reduction Regulation***

sections

4(10), 5(14), 7(4) and (5), 12(1), (2) and (3), 13(5), (6), (7), (8), (9), (10) and (12), 14(3), (4), (5) and (9), 15(1), (2), (3), (5) and (6), 16(1), (4) and (5), 18(1), (2) and (3), 22(5), 25(1) and (2), 26(1), (2), (3) and (4), 31(1), (2), (3), (4), (5) and (6) and 33(c), (d), (e), (f), (g) and (h).

(2) The ***Small Scale Generation Regulation (AR 194/2018)*** is amended in section 1(a) by striking out “*Carbon Competitiveness Incentive Regulation (AR 255/2017)*” and substituting “*Technology Innovation and Emissions Reduction Regulation*”.

(3) The ***Specified Gas Reporting Regulation (AR 251/2004)*** is amended by repealing section 1(c) and substituting the following:

- (c) “facility” means
  - (i) a plant, structure, thing or site, or
  - (ii) any 2 or more contiguous or adjacent plants, structures, things or sites
    - (A) that are operated and function in an integrated fashion, and
    - (B) for which the same person is the person responsible,

where one or more activities listed in any of sections 2 to 11 of the Schedule of Activities to the *Environmental Protection and Enhancement Act* occur, including all the buildings, equipment, structures, machinery and vehicles that are part of the activity or activities;

#### Repeal

**38** The *Carbon Competitiveness Incentive Regulation (AR 255/2017)* is repealed.

## Review and expiry

**39** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation

(a) must be reviewed on or before December 31, 2022, and

(b) expires on December 31, 2027.

## Coming into force

**40(1)** This Regulation, except [sections 5](#) and [36\(5\)](#) and [\(6\)](#), comes into force on January 1, 2020.

**(2)** [Sections 5](#) and [36\(5\)](#) and [\(6\)](#) come into force on November 1, 2019.

## Schedule 1

### Specified Gases

Specified Gas	Chemical Formula
Carbon dioxide	CO <sub>2</sub>
Methane	CH <sub>4</sub>
Nitrous oxide	N <sub>2</sub> O
HFC-23	CHF <sub>3</sub>
HFC-32	CH <sub>2</sub> F <sub>2</sub>
HFC-41	CH <sub>3</sub> F
HFC-43-10mee	C <sub>5</sub> H <sub>2</sub> F <sub>10</sub>
HFC-125	C <sub>2</sub> HF <sub>5</sub>
HFC-134	C <sub>2</sub> H <sub>2</sub> F <sub>4</sub>
HFC-134a	CH <sub>2</sub> FCF <sub>3</sub>
HFC-143	C <sub>2</sub> H <sub>3</sub> F <sub>3</sub>
HFC-143a	C <sub>2</sub> H <sub>3</sub> F <sub>3</sub>
HFC-152	CH <sub>2</sub> FCH <sub>2</sub> F
HFC-152a	C <sub>2</sub> H <sub>4</sub> F <sub>2</sub>
HFC-161	CH <sub>3</sub> CH <sub>2</sub> F
HFC-236cb	CH <sub>2</sub> FCF <sub>2</sub> CF <sub>3</sub>
HFC-236ea	CH <sub>2</sub> FCHF <sub>2</sub> CF <sub>3</sub>
HFC-236ea	CHF <sub>2</sub> CHF <sub>2</sub> CF <sub>3</sub>
HFC-227ea	C <sub>3</sub> HF <sub>7</sub>
HFC-236fa	C <sub>3</sub> H <sub>2</sub> F <sub>6</sub>
HFC-245ca	C <sub>3</sub> H <sub>3</sub> F <sub>5</sub>
HFC-245fa	CHF <sub>2</sub> CH <sub>2</sub> CF <sub>3</sub>
HFC-365mfc	CH <sub>3</sub> CF <sub>2</sub> CH <sub>2</sub> CF <sub>3</sub>
Sulphur hexafluoride	SF <sub>6</sub>
Perfluoromethane	CF <sub>4</sub>
Perfluoroethane	C <sub>2</sub> F <sub>6</sub>
Perfluorocyclopropane	c-C <sub>3</sub> F <sub>6</sub>
Perfluoropropane	C <sub>3</sub> F <sub>8</sub>
Perfluorobutane	C <sub>4</sub> F <sub>10</sub>
Perfluorocyclobutane	c-C <sub>4</sub> F <sub>8</sub>
Perfluoropentane	C <sub>5</sub> F <sub>12</sub>
Perfluorohexane	C <sub>6</sub> F <sub>14</sub>
Perfluorodecalin	C <sub>10</sub> F <sub>18</sub>
Nitrogen trifluoride	NF <sub>3</sub>

## Schedule 2 High-performance Benchmarks

### Definitions

1(1) Subject to subsection (2), in this Schedule,

- (a) “bituminous coal” means coal that is recovered or obtained from a coal mine located in the Foothills Natural Region or the Rocky Mountain Natural Region as defined in the Natural Regions and Subregions of Alberta, published by the department, as amended or replaced from time to time;
- (b) “cement” means a powder that results from the grinding of clinker and the blending of the ground clinker with other materials, such as gypsum, limestone and supplementary cementitious materials;
- (c) “electricity” means electricity that is exported from a facility, but does not include electricity that is exported from a renewable electricity facility in respect of which an economic benefit is being provided under a program or other scheme that is attributable to the electricity having been produced from an energy resource referred to in section 1(1)(nn) of this Regulation;
- (d) “ethylene glycol” means
  - (i) monoethylene glycol,
  - (ii) diethylene glycol,
  - (iii) triethylene glycol,
  - (iv) an ethylene glycol, other than polyethylene glycol, that is heavier than triethylene glycol, or
  - (v) a combination of 2 or more glycols, other than polyethylene glycol, referred to in subclauses (i) to (iv);
- (e) “hardwood kraft pulp” means wood pulp processed from hardwood species by a sulphate chemical process using cooking liquor;
- (f) “high-value chemicals” means all ethylene and associated by-products, other than hydrogen, that result from the ethylene production process, including, without limitation, propylene, butadiene and benzene;
- (g) “hydrogen” means, except in clause (f), hydrogen that is exported from a facility other than a facility that produces a product with a benchmark unit of Alberta complexity weighted barrel;
- (h) “industrial heat” means thermal energy that is exported from a regulated facility to
  - (i) a type of emission offset project generating emission offsets as described in section 19(2) or (3) of this Regulation or specified in the Standard for Greenhouse Gas Emission Offset Project Developers, or

- (ii) a different large emitter or opted-in facility;
- (i) “natural gas processing” means the treatment of natural gas by the extraction of hydrogen sulphide, carbon dioxide, helium, ethane, natural gas liquids or other substances;
- (j) “oil sands in situ bitumen” means bitumen recovered from an in situ operation site as defined in the *Oil Sands Conservation Act*, using
  - (i) steam-assisted gravity drainage or cyclic steam stimulation, or
  - (ii) another recovery technology that, in the opinion of the director, is reasonably comparable to steam-assisted gravity drainage or cyclic steam stimulation;
- (k) “oil sands mining bitumen” means bitumen that is recovered from a mine site as defined in the *Oil Sands Conservation Act*;
- (l) “softwood kraft pulp” means wood pulp processed from softwood species by a sulphate chemical process using cooking liquor.

(2) If Part 1 of the Standard for Developing Benchmarks includes a definition of a product that is not defined in subsection (1), or includes a further definition of a product that is defined in subsection (1), then the definition or further definition applies to this Schedule unless a contrary intention appears in the Standard.

**Table**

<b>Product</b>	<b>High-performance Benchmark (CO<sub>2</sub>e tonnes per benchmark unit)</b>	<b>Benchmark Unit</b>
ammonia	1.767	tonne
ammonium nitrate	0.1526	tonne
bituminous coal	0.0705	tonne
cement	0.7757	tonne
electricity	0.3700	megawatt hour
ethylene glycol	0.5023	tonne
hardwood kraft pulp	0.4793	air dry metric tonne
high-value chemicals	0.4819	tonne
hydrogen	9.068	tonne
industrial heat	0.06299	gigajoule
natural gas processing	0.6582	Alberta gas processing index
oil sands in situ bitumen	0.2974	m <sup>3</sup> of bitumen
oil sands mining bitumen	0.2056	m <sup>3</sup> of bitumen
softwood kraft pulp	0.4644	air dry metric tonne