



Province of Alberta

## CLIMATE CHANGE AND EMISSIONS MANAGEMENT ACT

# RENEWABLE FUELS STANDARD REGULATION

**Alberta Regulation 29/2010**

With amendments up to and including Alberta Regulation 170/2012

Office Consolidation

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(Consolidated up to 170/2012)

**ALBERTA REGULATION 29/2010**

**Climate Change and Emissions Management Act**

**RENEWABLE FUELS STANDARD REGULATION**

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- (a) “Act” means the *Climate Change and Emissions Management Act*;
- (b) “approved contributor” means a person approved under section 7;
- (c) “aviation fuel” means any fuel that has been refined or produced specifically for use in an aircraft;
- (d) “compliance period” means
  - (i) the 9-month period commencing April 1, 2011 and ending December 31, 2011, and
  - (ii) effective January 1, 2012, the 12-month period commencing January 1 in a year to December 31 of that year;
- (e) “compliance report” means
  - (i) in respect of a fuel supplier, the report required under section 10,
  - (ii) in respect of an approved contributor, the report required under section 11, and
  - (iii) in respect of a renewable fuel provider, the report required under section 12;
- (f) “denaturant” means a mixture of hydrocarbons that
  - (i) has an end boiling point of less than 225 degrees Celsius,

- (ii) is added to a renewable alcohol to make it unsuitable for use as a beverage but not unsuitable for use in gasoline or diesel engines, and
- (iii) does not in volume exceed 4.76% of the total volume of the renewable fuel when combined with the mixture of hydrocarbons;
- (g) “diesel fuel” means diesel that is fit for motive use in Canada, but does not include aviation fuel or qualifying renewable diesel;
- (h) “director” means a director appointed under section 2.2 of the Act for the purposes of this Regulation;
- (i) “Emissions Standard” means the *Renewable Fuels Greenhouse Gas Emissions Eligibility Standard* incorporated into and forming part of this Regulation under section 5;
- (j) “fuel supplier” means a person who in Alberta
  - (i) manufactures or refines gasoline fuel or diesel fuel,
  - (ii) imports in a year more than 400 000 litres of gasoline fuel or more than 400 000 litres of diesel fuel, or
  - (iii) acquires gasoline fuel or diesel fuel through an inter-refiner agreement,and sells it, at wholesale or retail, in Alberta;
- (k) “Fund” means the Climate Change and Emissions Management Fund established by the Act;
- (l) “fund contribution” means a fund contribution obtained under section 23;
- (m) “gasoline fuel” means gasoline that is fit for motive use in Canada, but does not include aviation fuel;
- (n) “greenhouse gas validator” means a person who meets the requirements set out in section 15;
- (o) “inter-refiner agreement” means an arrangement between refiners for the transfer of gasoline fuel or diesel fuel, and includes purchase and sale and product exchange;
- (p) “locomotive fuel” means fuel used to operate a railway locomotive or to provide heat or light to railway cars attached to a railway locomotive;

- (q) “qualifying renewable alcohol” means fuel that is qualifying renewable alcohol under section 3(1), and includes
  - (i) any denaturant in the fuel, and
  - (ii) any other additives that account for a total of no more than 1% of the volume of the fuel;
- (r) “qualifying renewable diesel” means fuel that is qualifying renewable diesel under section 3(2), and includes any additives that account for a total of no more than 1% of the volume of the fuel;
- (s) “renewable fuel” means
  - (i) in relation to gasoline fuel, qualifying renewable alcohol, and
  - (ii) in relation to diesel fuel, qualifying renewable diesel;
- (t) “renewable fuel feedstock types” means
  - (i) vegetable or other plant materials,
  - (ii) animal materials or waste,
  - (iii) algae,
  - (iv) fungi, and
  - (v) municipal waste materials, if the materials are received from a facility approved by the Director in accordance with a guideline developed under section 62 of the Act;
- (u) “renewable fuel provider” means a person who manufactures or imports renewable fuel
  - (i) for sale in Alberta to a fuel supplier or approved contributor, or
  - (ii) for use in Alberta by a fuel supplier or approved contributor,and includes a fuel supplier or approved contributor that manufactures or imports renewable fuel for that fuel supplier or approved contributor to sell or use in Alberta;
- (v) “renewable-blended diesel” means diesel fuel that is blended with qualifying renewable diesel;

- (w) “renewable-blended fuel” means
  - (i) aviation fuel or gasoline fuel that is blended with qualifying renewable alcohol, and
  - (ii) aviation fuel or diesel that is blended with qualifying renewable diesel;
- (x) “renewable-blended gasoline” means gasoline fuel that is blended with qualifying renewable alcohol;
- (y) “transitional compliance period” means the compliance period referred to in clause (d)(i).

**(2)** For the purposes of this Regulation, a volume of fuel is “placed in the Alberta market” if a fuel supplier or approved contributor

- (a) refined or blended it in Alberta,
- (b) imported it into Alberta, or
- (c) acquired it in Alberta through an inter-refiner agreement,

and sold it at wholesale or retail in Alberta.

**(3)** For the purposes of calculations under section 2, if a volume of fuel is “placed in the Alberta market” more than once, it shall be accounted for only by the fuel supplier that first placed it in the Alberta market.

**(4)** For the purposes of this Regulation, fuel

- (a) is not sold, if
  - (i) the fuel is transferred from one refiner to another as the result of an inter-refiner agreement, and
  - (ii) at the time of the transfer, the refiner making the transfer reasonably expects that the fuel will be sold by the refiner receiving it,
- (b) is not sold in Alberta, if the fuel supplier, at the time of the sale, reasonably expects that it will be exported from Alberta, or
- (c) is not imported, if it is brought into Alberta in the fuel tank of a vehicle or in a fuel tank for a device necessary for the intended use of that vehicle and is used only to power that vehicle or device, as applicable.

## Part 1 Renewable Fuels Standard and Requirements

### Renewable fuel content of gasoline and diesel

**2(1)** A fuel supplier must ensure that the gasoline fuel that it places in the Alberta market in a compliance period contains, on average, no less than 5% qualifying renewable alcohol content by volume, as calculated in accordance with the following formula:

$$AQ_a \% = \left( \frac{Q_a + NTI_a - NTO_a + FC_a + PV_a + DVI_a - DVO_a}{UBG_a + BG_a - BQ_a} \right) \times 100$$

where

$AQ_a \%$  is the calculated average qualifying renewable alcohol content by volume contained in the gasoline fuel that the fuel supplier placed in the Alberta market in the compliance period, expressed as a percentage;

$Q_a$  is the number of litres of qualifying renewable alcohol contained in the aviation fuel and gasoline fuel that the fuel supplier placed in the Alberta market in the compliance period;

$NTI_a$  is the number of litres of qualifying renewable alcohol notionally transferred to the fuel supplier for the compliance period in accordance with section 6 or 8;

$NTO_a$  is the number of litres of qualifying renewable alcohol notionally transferred by the fuel supplier to another fuel supplier for the compliance period in accordance with section 6;

$FC_a$  is the number of fund contributions for litres of qualifying renewable alcohol obtained by the fuel supplier for the compliance period under section 9(1)(a) or 24(1)(a);

$PV_a$  is the prior volume credits for litres of qualifying renewable alcohol that the fuel supplier may include for the compliance period under section 22(1);

$DVI_a$  is the double volumetric exchange credits for litres of qualifying renewable alcohol obtained by the fuel supplier under section 24(1)(b) for the compliance period;

$DVO_a$  is the number of litres of qualifying renewable alcohol that the fuel supplier subtracted under section 24(1)(a)(ii) to obtain double volumetric exchange credits for qualifying renewable diesel for the compliance period;



UBG<sub>a</sub> is the number of litres of gasoline fuel that the fuel supplier placed in the Alberta market in the compliance period that was not blended with qualifying renewable alcohol;

BG<sub>a</sub> is the number of litres of renewable-blended gasoline that the fuel supplier placed in the Alberta market in the compliance period;

BQ<sub>a</sub> is the number of litres of qualifying renewable alcohol contained in the renewable-blended gasoline that the fuel supplier placed in the Alberta market in the compliance period.

(2) A fuel supplier must ensure that the diesel fuel that it places in the Alberta market in a compliance period contains, on average, no less than 2% qualifying renewable diesel content by volume, as determined by the following formula:

$$AQ_d\% = \left( \frac{Q_d + NTI_d - NTO_d + FC_d + PV_d + DVI_d - DVO_d}{UBD_d + BD_d - BQ_d - LF_d} \right) \times 100$$

where

AQ<sub>d</sub>% is the calculated average qualifying renewable diesel content by volume contained in the diesel fuel that the fuel supplier placed in the Alberta market in the compliance period, expressed as a percentage;

Q<sub>d</sub> is the number of litres of qualifying renewable diesel contained in the aviation fuel and diesel that the fuel supplier placed in the Alberta market in the compliance period;

NTI<sub>d</sub> is the number of litres of qualifying renewable diesel notionally transferred to the fuel supplier for the compliance period in accordance with section 6 or 8;

NTO<sub>d</sub> is the number of litres of qualifying renewable diesel notionally transferred by the fuel supplier to another fuel supplier for the compliance period in accordance with section 6;

FC<sub>d</sub> is the number of fund contributions for litres of qualifying renewable diesel obtained by the fuel supplier for the compliance period under section 9(1)(b) or 24(1)(b);

PV<sub>d</sub> is the prior volume credits for litres of qualifying renewable diesel that the fuel supplier may include for the compliance period under section 22(2);

- $DVI_d$  is the double volumetric exchange credits for litres of qualifying renewable diesel obtained by the fuel supplier under section 24(1)(a) for the compliance period;
- $DVO_d$  is the number of litres of qualifying renewable diesel that the fuel supplier subtracted under section 24(1)(b)(ii) to obtain double volumetric exchange credits for qualifying renewable alcohol for the compliance period;
- $UBD_d$  is the number of litres of diesel fuel that the fuel supplier placed in the Alberta market in the compliance period that was not blended with qualifying renewable diesel;
- $BD_d$  is the number of litres of renewable-blended diesel that the fuel supplier placed in the Alberta market in the compliance period;
- $BQ_d$  is the number of litres of qualifying renewable diesel contained in the renewable-blended diesel that the fuel supplier placed in the Alberta market in the compliance period;
- $LF_d$  is the number of litres of locomotive fuel deducted for the compliance period under subsection (3).

**(3)** A fuel supplier may deduct locomotive fuel that the fuel supplier placed in the Alberta market in a compliance period that ends before January 1, 2013 in accordance with the formula set out in subsection (2) if the fuel supplier establishes by written evidence satisfactory to the director that the locomotive fuel was placed in the Alberta market for use in a railway locomotive or to provide heat or light to railway cars attached to a railway locomotive.

#### **Qualifying renewable fuels**

**3(1)** A fuel is qualifying renewable alcohol if the fuel

- (a) is produced from one or more renewable fuel feedstock types,
- (b) meets the requirements
  - (i) for ethanol set out in ASTM International Standard ASTM D4806, Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel, as amended or replaced from time to time,
  - (ii) for ethanol set out in National Standard of Canada CAN/CGSB 3.511, Oxygenated Unleaded

Automotive Gasoline Containing Ethanol, as amended or replaced from time to time, or

- (iii) set out in a standard of ASTM International or the Canadian General Standards Board, as approved by the director,

and

- (c) has a greenhouse gas emissions intensity that is at least 25% less than the greenhouse gas emissions intensity of gasoline fuel, as determined in accordance with the Emissions Standard.

**(2) A fuel is qualifying renewable diesel if the fuel**

- (a) is produced from one or more renewable fuel feedstock types,
- (b) meets the requirements
  - (i) of ASTM International Standard ASTM D6751, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, as amended or replaced from time to time, or
  - (ii) set out in a standard of ASTM International or the Canadian General Standards Board, as approved by the director,

and

- (c) has a greenhouse gas emissions intensity that is at least 25% less than the greenhouse gas emissions intensity of diesel fuel, as determined in accordance with the Emissions Standard.

**Validation by a greenhouse gas validator**

**4(1)** No person shall represent or imply that the fuel that the person is offering to sell in Alberta is qualifying renewable alcohol or qualifying renewable diesel unless

- (a) the person holds a subsisting validation issued by a greenhouse gas validator in accordance with the Emissions Standard, and
- (b) the fuel was produced in a manner that is consistent with the processes and feedstocks that are set out in the validation.

- (2) A validation issued by a greenhouse gas validator in accordance with the Emissions Standard expires one year after the date the validation is issued.

#### **Incorporation of Emissions Standard**

- 5 Pursuant to section 61 of the Act, the *Renewable Fuels Greenhouse Gas Emissions Eligibility Standard* developed under section 62 of the Act, as amended or replaced from time to time, is incorporated into and forms part of this Regulation.

#### **Notional transfers between fuel suppliers**

- 6(1) A fuel supplier may notionally transfer to another fuel supplier all or part of the volume of qualifying renewable alcohol that was contained in the aviation fuel or gasoline fuel that the fuel supplier placed in the Alberta market in a compliance period, and the receiving fuel supplier may use the notional transfer for that compliance period in accordance with the formula set out in section 2(1).
- (2) A fuel supplier may notionally transfer to another fuel supplier all or part of the volume of qualifying renewable diesel that was contained in the aviation fuel or diesel that the fuel supplier placed in the Alberta market in a compliance period, and the receiving fuel supplier may use the notional transfer for that compliance period in accordance with the formula set out in section 2(2).
- (3) A notional transfer of renewable fuel under subsection (1) or (2)
- (a) must be made on or before the March 31 following the compliance period in which the renewable-blended fuel was placed in the Alberta market,
  - (b) must be supported by records of transfer made by each of the fuel suppliers that are parties to the transfer in accordance with subsections (4) and (5),
  - (c) must be recorded in the compliance reports of both fuel suppliers, and
  - (d) shall not be used by more than one fuel supplier.
- (4) A fuel supplier that makes a notional transfer of renewable fuel under this section to another fuel supplier must make a record of the transfer that includes the following information:
- (a) the name of the fuel supplier that received the notional transfer;

- (b) the date of the notional transfer;
- (c) the number of litres of qualifying renewable alcohol notionally transferred;
- (d) the number of litres of qualifying renewable diesel notionally transferred;
- (e) the compliance period in which the renewable-blended fuel was placed in the Alberta market by the fuel supplier making the notional transfer.

**(5)** A fuel supplier that receives a notional transfer of renewable fuel under this section must make a record of the transfer that includes the following information:

- (a) the name of the fuel supplier that made the notional transfer;
- (b) the date of the notional transfer;
- (c) the number of litres of qualifying renewable alcohol notionally transferred;
- (d) the number of litres of qualifying renewable diesel notionally transferred;
- (e) the compliance period in which the renewable-blended fuel was placed in the Alberta market by the fuel supplier making the notional transfer.

#### **Approved contributors**

**7** The director may approve the application of a person to be an approved contributor for the purposes of this Regulation if the person

- (a) blends gasoline fuel, aviation fuel or diesel that has been placed in the Alberta market with renewable fuel,
- (b) places the renewable-blended fuel in the Alberta market, and
- (c) is not a fuel supplier.

#### **Notional transfers from approved contributors**

**8(1)** An approved contributor may notionally transfer to a fuel supplier all or part of the volume of qualifying renewable alcohol that was contained in the aviation fuel or gasoline fuel that the approved contributor placed in the Alberta market in a compliance

period, and the fuel supplier may use the notional transfer for that compliance period in accordance with the formula set out in section 2(1).

**(2)** An approved contributor may notionally transfer to a fuel supplier all or part of the volume of qualifying renewable diesel that was contained in the aviation fuel or diesel that the approved contributor placed in the Alberta market in a compliance period, and the fuel supplier may use the notional transfer for that compliance period in accordance with the formula set out in section 2(2).

**(3)** A notional transfer of renewable fuel under subsection (1) or (2)

- (a) must be made on or before the March 31 following the compliance period in which the renewable-blended fuel was placed in the Alberta market,
- (b) must be supported by records of transfer made by the approved contributor and fuel supplier that are parties to the transfer in accordance with subsections (4) and (5),
- (c) must be recorded in the compliance reports of the approved contributor and the fuel supplier, and
- (d) shall not be used by more than one fuel supplier.

**(4)** An approved contributor that makes a notional transfer of renewable fuel to a fuel supplier under this section must make a record of the transfer that includes the following information:

- (a) the name of the fuel supplier;
- (b) the date of the notional transfer;
- (c) the number of litres of qualifying renewable alcohol notionally transferred;
- (d) the number of litres of qualifying renewable diesel notionally transferred;
- (e) the compliance period in which the renewable-blended fuel was placed in the Alberta market by the approved contributor.

**(5)** A fuel supplier that receives a notional transfer of renewable fuel from an approved contributor under this section must make a record of the transfer that includes the following information:

- (a) the name of the approved contributor;

- (b) the date of the notional transfer;
- (c) the number of litres of qualifying renewable alcohol notionally transferred;
- (d) the number of litres of qualifying renewable diesel notionally transferred;
- (e) the compliance period in which the renewable-blended fuel was placed in the Alberta market by the approved contributor.

#### **Fund contributions**

**9(1)** A fuel supplier may obtain fund contributions for use in a compliance period by contributing money to the Fund as follows:

- (a) for each \$0.90 the fuel supplier contributes to the Fund to obtain fund contributions for qualifying renewable alcohol, the fuel supplier may obtain a fund contribution for one litre of qualifying renewable alcohol;
- (b) for each \$1.35 the fuel supplier contributes to the Fund to obtain fund contributions for qualifying renewable diesel, the fuel supplier may obtain a fund contribution for one litre of qualifying renewable diesel.

**(2)** A fuel supplier may use fund contributions obtained under this section for a compliance period in accordance with the formula set out in section 2(1) or (2) subject to the following rules:

- (a) a fund contribution must be obtained on or before the March 31 following the compliance period for which the contribution is to be used;
- (b) fund contributions may only be used to replace up to 5% of the volume of qualifying renewable alcohol that the fuel supplier is required to place in the Alberta market in the compliance period in order to comply with section 2(1);
- (c) fund contributions may only be used to replace up to 5% of the volume of qualifying renewable diesel that the fuel supplier is required to place in the Alberta market in the compliance period in order to comply with section 2(2);
- (d) a fund contribution may not be used by more than one fuel supplier;
- (e) the use of a fund contribution must comply with any guidelines developed under section 62 of the Act.

## **Part 2**

### **Reporting, Records and Greenhouse Gas Validators**

#### **Fuel supplier compliance report**

**10(1)** On or before the March 31 following each compliance period, a fuel supplier must submit a report to the director respecting its compliance with this Regulation for that compliance period.

**(2)** The report must contain the information and data required in a form required by the director.

**(3)** A fuel supplier shall submit the report by electronic means if required by the director.

**(4)** The report must

- (a) either confirm that the requirements of section 4 have been met for the compliance period or provide an acknowledgement that the requirements have not been met for the compliance period,
- (b) set out the result of the calculations under section 2 and the values for all of the information included in reaching that result,
- (c) set out, for each fuel supplier or approved contributor from which the fuel supplier received a notional transfer of renewable fuel for the compliance period,
  - (i) the legal name and address of that fuel supplier or approved contributor, and
  - (ii) the volume and type of renewable fuel notionally transferred,
- (d) set out, for each fuel supplier to which the fuel supplier notionally transferred renewable fuel for the compliance period,
  - (i) the legal name and address of that fuel supplier, and
  - (ii) the volume and type of renewable fuel notionally transferred,
- (e) include, for each shipment of renewable fuel that the fuel supplier received from a renewable fuel provider and blended with fuel that the fuel supplier placed in the Alberta market in the compliance period,



- (i) the legal name and address of the renewable fuel provider,
  - (ii) the volume and type of renewable fuel received,
  - (iii) the date the renewable fuel was received,
  - (iv) the reference number of a validation issued to the renewable fuel provider under section 4 that was subsisting on the date the renewable fuel was received, and
  - (v) a declaration from the renewable fuel provider that the renewable fuel was produced in a manner that is consistent with the processes and feedstocks that are set out in the validation referred to in subclause (iv),
- and
- (f) be certified by a person and in a manner required by the director.

**Approved contributor compliance report**

**11(1)** On or before the March 31 following each compliance period in which an approved contributor provided a notional transfer to a fuel supplier under section 8, the approved contributor must submit a report for the compliance period to the director.

**(2)** The report must contain the information and data required in a form required by the director.

**(3)** The approved contributor shall submit the report by electronic means if required by the director.

**(4)** The report must

- (a) set out, for each fuel supplier to which the approved contributor notionally transferred renewable fuel in the compliance period,
  - (i) the legal name and address of that fuel supplier, and
  - (ii) the volume and type of renewable fuel notionally transferred,
- (b) include, for each shipment of renewable fuel that the approved contributor received from a renewable fuel provider and blended with fuel that the approved contributor placed in the Alberta market in the compliance period,

- (i) the legal name and address of the renewable fuel provider,
  - (ii) the volume and type of renewable fuel received,
  - (iii) the date the renewable fuel was received,
  - (iv) the reference number of a validation issued to the renewable fuel provider under section 4 that was subsisting on the date the renewable fuel was received, and
  - (v) a declaration from the renewable fuel provider that the renewable fuel was produced in a manner that is consistent with the processes and feedstocks that are set out in the validation referred to in subclause (iv),
- and
- (c) be certified by a person and in a manner required by the director.

**Renewable fuel provider compliance report**

**12(1)** On or before the March 31 following each compliance period in which a renewable fuel provider provided renewable fuel to a fuel supplier or approved contributor, the renewable fuel provider must submit a report to the director respecting its compliance with this Regulation for that compliance period.

**(2)** The report must contain the information and data required in a form required by the director.

**(3)** The renewable fuel provider shall submit the report by electronic means if required by the director.

**(4)** The report must

- (a) include copies of all validations issued to the renewable fuel provider under section 4 that were subsisting in the compliance period,
- (b) include, for each shipment of renewable fuel that the renewable fuel provider sold or allocated to a fuel supplier or approved contributor in the compliance period,
  - (i) the legal name and address of the fuel supplier or approved contributor,
  - (ii) the volume and type of renewable fuel sold or allocated,

- (iii) the date the renewable fuel was received by the fuel supplier or approved contributor, and
  - (iv) a copy of the declaration that the renewable fuel provided to the fuel supplier or approved contributor for the shipment of renewable fuel,
- and
- (c) be certified by a person and in a manner required by the director.

**Further information, verification and resubmission**

**13** The director may do one or more of the following regarding a report or information submitted to the director:

- (a) require that additional information or data be provided;
- (b) require verification or further verification by a greenhouse gas validator of any information or data;
- (c) require that an audit report respecting the accuracy of the report or information be prepared in accordance with Canadian generally accepted accounting principles and submitted to the director;
- (d) collect any additional information or conduct any review or audit to verify the accuracy of a report or information submitted to the director that the director considers necessary;
- (e) direct the fuel supplier, approved contributor or renewable fuel provider to resubmit information in accordance with any directions that the director considers necessary.

**Retention of records**

**14(1)** A fuel supplier, approved contributor or renewable fuel provider that submits a compliance report shall, for at least 5 years following the submission of the application or report, retain

- (a) a copy of the report, and
- (b) the records, information and data on which the report was based.

**(2)** The material retained under subsection (1) must be located at the head or principal office, in Alberta, of the fuel supplier, approved contributor or renewable fuel provider or at any other place with the written approval of the Director.

**Qualifications of greenhouse gas validators**

**15(1)** A person is eligible to be a greenhouse gas validator for the purpose of this Regulation if the person

- (a) is
  - (i) registered as a professional engineer under the *Engineering and Geoscience Professions Act*,
  - (ii) certified as an environmental auditor, principal environmental auditor, lead environmental auditor or business improvement environmental auditor by RABQSA International, or
  - (iii) a member of a profession that has substantially similar competence and practice requirements as a profession referred to in subclause (i)
    - (A) in a province or territory of Canada, or
    - (B) approved by the director, in a jurisdiction outside of Canada,
- (b) has technical knowledge of
  - (i) renewable fuel production processes,
  - (ii) audit practices, and
  - (iii) any other matters considered relevant by the director,and
- (c) has any other qualifications that the director considers necessary.

**(2)** A person is not eligible to be a greenhouse gas validator for a renewable fuel provider if

- (a) the person is a director, officer or employee of
  - (i) the renewable fuel provider,
  - (ii) a fuel supplier that purchases or acquires renewable fuel from the renewable fuel provider,
  - (iii) a person who sells or transfers renewable fuel to the renewable fuel provider,
  - (iv) a person who manufactures renewable fuel that is sold to the renewable fuel provider, or

- (v) an affiliate, within the meaning of section 2 of the *Business Corporations Act*, of the renewable fuel provider or of a fuel supplier or of a person referred to in subclause (iii) or (iv),

or

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

**(3)** The director may request evidence of a person's qualifications and eligibility as a greenhouse gas validator and may determine that the person is not eligible to perform the functions of a greenhouse gas validator if the director is not satisfied that the person possesses the necessary qualifications or that the person is eligible.

AR 29/2010 s15;170/2012

## **Part 3 Enforcement**

### **Administrative Penalties**

#### **Notice of administrative penalty**

**16(1)** The following provisions of this Regulation are provisions in respect of which a notice of administrative penalty may be given under section 38 of the Act:

- (a) section 2;
- (b) section 4;
- (c) section 10;
- (d) section 11;
- (e) section 12;
- (f) section 14;
- (g) section 19(1)(b) and (c).

**(2)** A notice of administrative penalty must be given in writing and must contain the following information:

- (a) the name of the person required to pay the administrative penalty;
- (b) particulars of the contravention;

- (c) the amount of the administrative penalty and the date by which it must be paid;
- (d) a statement of the right to appeal to the Environmental Appeals Board given under section 42 of the Act.

**Administrative penalty assessment**

**17(1)** The amount of an administrative penalty for a fuel supplier that contravenes section 2(1) must be determined by the following formula:

$$\text{\$AP} = [(D_a \times 0.05) - N_a] \times \$0.30$$

where

$\text{\$AP}$  is the administrative penalty;

$D_a$  is the calculated total of all of the information included in the denominator of the formula in section 2(1) for the compliance period;

$N_a$  is the calculated total of all of the information included in the numerator of the formula in section 2(1) for the compliance period.

**(2)** The amount of an administrative penalty for a contravention of section 2(2) must be determined by the following formula:

$$\text{\$AP} = [(D_d \times 0.02) - N_d] \times \$0.45$$

where

$\text{\$AP}$  is the administrative penalty;

$D_d$  is the calculated total of all of the information included in the denominator of the formula in section 2(2) for the compliance period;

$N_d$  is the calculated total of all of the information included in the numerator of the formula in section 2(2) for the compliance period.

**(3)** Subject to subsections (4) and (5), the amount of an administrative penalty that may be imposed for the purposes of section 38(2)(a) of the Act for each contravention referred to in section 16(1)(b) to (g) of this Regulation that occurs, or for each day or part of a day on which the contravention occurs and continues, is \$1000.

(4) In a particular case, the director may increase or decrease the amount of the administrative penalty from the amount set out in subsection (3) on considering the following factors:

- (a) the severity of the contravention;
- (b) the degree of wilfulness or negligence in the contravention;
- (c) whether there was any mitigation relating to the contravention;
- (d) whether steps have been taken to prevent reoccurrence of the contravention;
- (e) whether the person who receives the notice of administrative penalty has a history of non-compliance;
- (f) any other factors that, in the opinion of the director, are relevant.

(5) The maximum administrative penalty that may be imposed under subsection (3) for the purposes of section 38(2)(a) of the Act is \$5000 for each contravention, or for each day or part of a day on which the contravention occurs or continues, as the case may be.

(6) The maximum administrative penalty that may be imposed under section 38(2)(b) of the Act for each contravention referred to in section 16(1)(b) to (g) of this Regulation is \$100 000.

#### **Payment of penalty**

**18** A person who is served with a notice of administrative penalty shall pay the amount of the penalty within 30 days of the date of service of the notice.

### **Offences**

#### **Offences**

**19(1)** A person who

- (a) contravenes section 4, 10, 11, 12 or 14,
- (b) performs the functions of a greenhouse gas validator and does not meet the requirements set out in section 15, or
- (c) retains a person as a greenhouse gas validator who does not meet the requirements set out in section 15,

is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) is liable

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

**Due diligence**

**20** 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.

## **Part 4**

### **Transitional, Expiry and Coming into Force**

**Prior volume credit for transitional period**

**21(1)** In accordance with the formula set out in section 2(1), a fuel supplier may include in its calculations for the transitional compliance period all or part of the volume of ethanol that was contained in the gasoline fuel that the fuel supplier placed in the Alberta market between January 1, 2009 and March 31, 2011 if the director is satisfied that the ethanol met the requirements for qualifying renewable alcohol set out in section 3(1).

(2) In accordance with the formula set out in section 2(2), a fuel supplier may include in its calculations for the transitional compliance period all or part of the volume of renewable diesel that was contained in the aviation fuel and diesel that the fuel supplier placed in the Alberta market between January 1, 2009 and March 31, 2011 if the director is satisfied that the renewable diesel met the requirements for qualifying renewable diesel set out in section 3(2).

AR 29/2010 s21;179/2010

**Notional transfers of prior volumes for transitional period**

**22(1)** Notwithstanding sections 6(3)(a) and 8(3)(a), a notional transfer of qualifying renewable alcohol between fuel suppliers under section 6(1) or between an approved contributor and a fuel supplier under section 8(1) may, for the transitional compliance period only, include all or part of the volume of ethanol that was contained in the gasoline fuel that the fuel supplier or approved contributor placed in the Alberta market between January 1, 2009 and March 31, 2011 if the director is satisfied that the fuel met the requirements for qualifying renewable alcohol set out in section 3(1).



(2) Notwithstanding sections 6(3)(a) and 8(3)(a), a notional transfer of qualifying renewable diesel between fuel suppliers under section 6(2) or between an approved contributor and a fuel supplier under section 8(2) may, for the transitional compliance period only, also include all or part of the volume of renewable diesel that was contained in the aviation fuel and diesel that the fuel supplier or approved contributor placed in the Alberta market between January 1, 2009 and March 31, 2011 if the director is satisfied that the renewable diesel met the requirements for qualifying renewable diesel set out in section 3(2).

AR 29/2010 s22;179/2010

#### **Fund contributions for transitional period**

**23(1)** Notwithstanding section 9, a fuel supplier may obtain fund contributions for use for the transitional compliance period by contributing money to the Fund as follows:

- (a) for each \$0.60 the fuel supplier contributes to the Fund to obtain fund contributions for qualifying renewable alcohol, the fuel supplier may obtain a fund contribution for one litre of qualifying renewable alcohol;
- (b) for each \$0.90 the fuel supplier contributes to the Fund to obtain fund contributions for qualifying renewable diesel, the fuel supplier may obtain a fund contribution for one litre of qualifying renewable diesel.

(2) A fuel supplier may use fund contributions obtained under this section for the transitional compliance period in accordance with the formula set out in section 2(1) or (2) subject to the following rules:

- (a) fund contributions for use in the transitional compliance period must be obtained on or before March 31, 2012;
- (b) fund contributions may only be used to replace up to 10% of the volume of qualifying renewable alcohol that the fuel supplier is required to place in the Alberta market in the transitional compliance period in order to comply with section 2(1);
- (c) fund contributions may only be used to replace up to 10% of the volume of qualifying renewable diesel that the fuel supplier is required to place in the Alberta market in the transitional compliance period in order to comply with section 2(2);
- (d) a fund contribution may not be used by more than one fuel supplier;

- (e) the use of a fund contribution must accord with any guidelines developed under section 62 of the Act.

**Double volumetric exchange credits for transitional period**

**24(1)** A fuel supplier may obtain double volumetric exchange credits for use for the transitional compliance period as follows:

- (a) a fuel supplier obtains an exchange credit of one litre of qualifying renewable alcohol for use in calculations in the formula set out in section 2(1) for every 2 litres of qualifying renewable diesel that
  - (i) was contained in the renewable-blended fuel that the fuel supplier placed in the Alberta market in the transitional compliance period, and
  - (ii) the fuel supplier subtracts in its calculations of the numerator in the formula set out in section 2(2) for the transitional compliance period;
- (b) the fuel supplier obtains an exchange credit of one litre of qualifying renewable diesel for use in calculations in the formula set out in section 2(2) for every 2 litres of qualifying renewable alcohol that
  - (i) was contained in the renewable-blended fuel that the fuel supplier placed in the Alberta market in the transitional compliance period, and
  - (ii) the fuel supplier subtracts in its calculations of the numerator in the formula set out in section 2(1) for the transitional compliance period.

**(2)** A fuel supplier may use double volumetric exchange credits obtained under this section for the transitional compliance period subject to the following rules:

- (a) exchange credits may only be used to replace up to 10% of the volume of qualifying renewable alcohol that the fuel supplier is required to include in the gasoline fuel that it places in the Alberta market in the transitional compliance period in order to comply with section 2(1), and
- (b) exchange credits may only be used to replace up to 10% of the volume of qualifying renewable diesel that the fuel supplier is required to include in the diesel fuel that it places in the Alberta market in the transitional compliance period in order to comply with section 2(2).

**Expiry**

**25** 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 expires on January 31, 2020.



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