

British Columbia
Greenhouse Gas Industrial Reporting
and Control Act

COMPLIANCE AND ENFORCEMENT

Policy and Procedure



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1.0 GENERAL FRAMEWORK

This document summarizes the regulatory framework of the Greenhouse Gas Industrial Reporting and Control Act (GGIRCA or the Act) to which this policy and procedure applies, provides the overarching purpose and intent of this document, and then describes the specific roles and responsibilities for ensuring compliance under the Act. The document then provides policies and procedures for compliance and enforcement activities, including inspection, assessment of non-compliance, and enforcement actions.

While this document helps to clarify Ministry compliance and enforcement policy with respect to the GGIRCA regulatory framework, it is not a legal document and the information in it does not constitute legal advice or impose any legally binding requirements. It is supported by legal opinion, but does not replace either the GGIRCA or its regulations or any other applicable law. Any amendments to the GGIRCA, and its regulations or any other regulation referred to in this document may affect provisions of this document; in the event of an inconsistency, the GGIRCA or other applicable regulation will prevail.

1.1 Application

This policy and listed procedures applies to the Act and provides direction to Ministry of Environment and Climate Change Strategy (MOECCS or the Ministry) staff that are responsible for its implementation. The Act, which replaced the Greenhouse Gas Reduction (Cap and Trade) Act, was passed in November 2014 and brought into force on January 1, 2016.

The three regulations authorized under the Act are:

- The Greenhouse Gas Emissions Reporting Regulation (GGERR)
- The Greenhouse Gas Emission Control Regulation (GGECR); and
- The Greenhouse Gas Administrative Penalties and Appeals Regulation (GGEAPAR).

1.2 Purpose and Intent

The purpose and intent of this document is to provide:

- clarity about roles and responsibilities for ensuring compliance under GGIRCA;
- awareness about regulatory requirements for reporting operations, verification and validation bodies and Ministry staff;
- a coordinated, planned and balanced approach which ensures a fair and efficient use of limited resources; and,
- assurance to stakeholders, including industry and the public, that the Ministry's compliance activities are accountable, transparent, use the best available information and encourage a high-standard of environmental stewardship.

This document is situated within the MOECCS [Compliance Management Framework](#) and the MOECCS [Compliance and Enforcement Policy and Procedure](#), which apply to all incidents of non-compliance with ministry statutes, regulations and authorizations, all Conservation Officers, all program staff in the ministry who play a role in ensuring compliance and staff of other government agencies who conduct compliance and/or enforcement activities on behalf of the MOECCS or who rely on COS to provide enforcement services on their behalf. The GGIRCA compliance framework was developed through the Ministry compliance model, which includes:

- setting regulatory requirements that are clear, practical and enforceable;
- promoting requirements in ways that encourage individuals and businesses to voluntarily comply;
- verifying (through monitoring inspections and audits) that individuals and businesses are meeting their regulatory requirements; and
- where these requirements are not being met, adjusting the approach or, where appropriate, compelling compliance through enforcement.

By prescribing common requirements, policies and procedures for Ministry staff responsible for ensuring compliance with GGIRCA, this document provides assurance to stakeholders that enforcement actions align with principles of administrative fairness, are proportionate to the risk created by non-compliance, and that decisions are made in a transparent and accountable way.

1.3 Roles and Responsibilities

The Climate Action Secretariat (CAS) in the Ministry of Environment and Climate Change Strategy (MOECCS) is the central government agency responsible for advising the provincial government on climate change issues and administering climate change legislation and programs. CAS's mandate is to ensure an innovative, coordinated, and effective approach to climate action in British Columbia. Achieving this mandate is possible through effective implementation of GGIRCA, which requires strategic partnership, shared stewardship and a balanced, collaborative approach to compliance and enforcement. Roles and responsibilities for compliance under the Act are summarized in Table 1 below:

Table 1: Roles and responsibilities for compliance under GGIRCA

Role	Responsibilities
Reporting Operations and Regulated Operations	Industrial facilities are required to comply with GGIRCA.
Climate Action Secretariat	MOECCS division that is responsible for administration of GGIRCA.
Industrial Reporting and Control	MOECCS branch that is responsible for administration of GGIRCA, including ensuring and fostering compliance with GGIRCA, and developing and implementing its policies and procedures.
Director	The director is appointed under the Public Service Act and is designated as the director for the purposes of GGIRCA with authority that includes issuance of administrative penalties, refusal of non-compliant verification statements, issuance and retirement of compliance units, establishment of protocols, and acceptance of emission offset projects.
Inspector	An inspector is designated by the director under GGIRCA and is responsible for conducting inspections of works and activities regulated under GGIRCA.
Conservation Officer Service (COS)	Public safety provider focused on natural resource law enforcement responsible for investigation and recommendation of court prosecution under GGIRCA.
Verification and Validation Bodies (VVB)	Bodies that perform validations or verifications of GHG assertions, including emissions reports and offset project plans and reports, in accordance with ISO 14064-3 and ISO 14065.
Accreditation Bodies	Bodies that provide accreditation in accordance with ISO 14065 and ensure conformance of verification and validation bodies with ISO 14064-3.
International Organization for Standardization (ISO)	International standard-setting body that specifies principles and requirements and provides guidance for those conducting or managing the validation and/or verification of greenhouse gas (GHG) assertions.
Western Climate Initiative (WCI)	Non-profit corporation to which British Columbia is a partner that, in part, defines standards of emissions quantification methodologies.

2.0 POLICY AND PROCEDURE

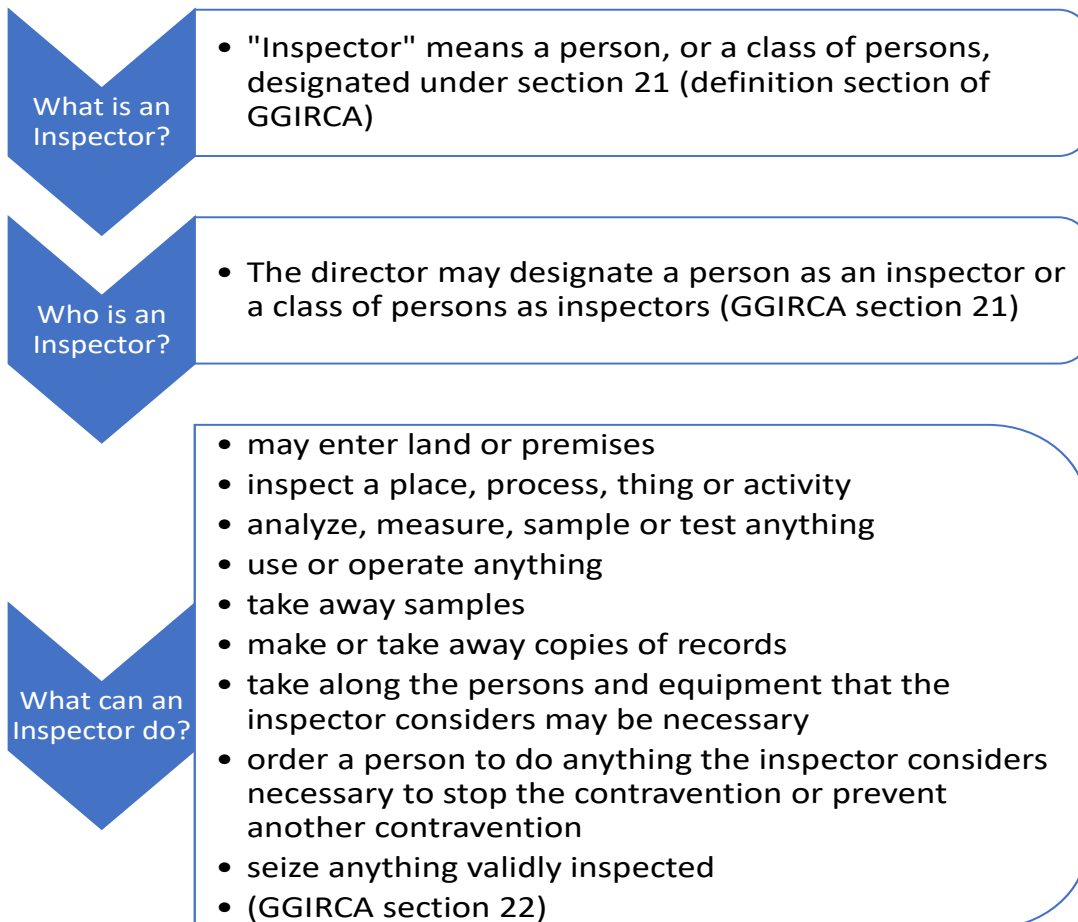
This section provides policy and procedure for compliance and enforcement activities under the Act.

2.1 Designation as Inspector

An “inspector” means a person, or a class of persons, designated under section 21 of GGIRCA. An inspector is responsible for conducting inspections of works and activities regulated under GGIRCA. Inspectors gather information for compliance assessments.

Inspections or compliance assessments conducted by Industrial Reporting and Control (IRC) staff indicating non-compliance may lead to an administrative enforcement response such as the issuance of an advisory, warning, or administrative monetary penalty. The Conservation Officer Service (COS), as the ministry enforcement program, may be contacted to begin an investigation should a scheduled or unscheduled inspection provide reasonable grounds to believe an offence or violation has been committed, which may also lead to an administrative response or prosecutorial response (formal charges).

An inspector must only act within the scope of their powers of inspection and seizure and does so only for the purposes of ensuring compliance with GGIRCA. In summary:



2.2 Inspection

Inspections can be characterized as any action(s) taken to verify compliance with regulatory requirements, and include office-based reviews and/or on-site inspection within the premises or operations of an industrial operation.

For the purposes of ensuring compliance with the Act or its regulations, an inspector, at any reasonable time, may inspect any place, process, thing or activity that is part of the business premises or operations of an industrial operation, or part of the business premises of the project proponent of an accepted emission offset project or the site of the project.

Inspections undertaken by Industrial Reporting and Control staff are done according to a sampling plan that incorporates risk-based priority and random selection. Risk factors that are considered to determine the priority of an inspection include, but are not limited to:

- past non-compliance by an operator of a reporting operation under GGIRCA and/or any other legislation or regulation;
- the number and/or size of facilities held or directed by an operator of a reporting operation; and,
- the quantity and source type of emissions attributable to an operator of a reporting operation.

Inspections form an integral part of the Ministry's overall strategy to ensure compliance with the regulatory requirements of GGIRCA.

2.3 Non-compliance decision matrix

When an inspector has reasonable grounds to believe that an operator of a reporting operation is non-compliant with GGIRCA, escalating enforcement actions will be taken in accordance with the Non-Compliance Decision Matrix (the Matrix) as provided in the MOECCS [Compliance and Enforcement Policy and Procedure](#). The Matrix is a risk-based guidance tool for assessing the variability and severity of factors influencing the selection of compliance tools.

For the purpose of using the Matrix to evaluate the "level of escalating environmental, human health or safety impacts (actual or potential)" of non-compliance under GGIRCA, an inspector may assess non-compliance as either a "Level 1 - minor administrative non-compliance", or a "Level 2 - significant administrative non-compliance" by considering the nature and extent of the non-compliance in the relation to the nature and extent of its impacts (actual or potential) to the overall system of quantification and reporting of emissions.

The following factors provide guidance to Industrial Reporting and Control staff for consideration of the nature and extent of the impact (actual or potential):

- The nature and extent of the administrative non-compliance.
- The scale of the reporting operation in terms of:
 - the quantity and source type of attributable emissions to an operator of a reporting operation;
 - the number and size of facilities held or directed by an operator of a reporting operation;
- If applicable, the level of assurance provided in the verification statement.

2.4 Responding to non-compliance by reporting operations and regulated operations

The following tools are available to address non-compliance on the part of reporting operations and regulated operations:

2.4.1 Compliance promotion

Compliance promotion is any activity that increases awareness, educates motivates, or changes behaviour, and encourages voluntary compliance with a regulatory requirement, e.g. providing information to the regulated community on regulatory requirements, including positions on interpretation of regulations.

Promotion may be conducted as a stand-alone activity or it may occur in conjunction with compliance verification activities.

2.4.2 Advisory

An advisory notifies the non-compliant party in writing that they are not in compliance with a specific regulatory requirement and often recommends a course of action that is expected to achieve compliance.

2.4.3 Warning

Similar to an advisory, a warning notifies the non-compliant party in writing that they are not in compliance with a specific regulatory requirement; however, the warning differs from an advisory in that it warns of the possibility of an escalating response should non-compliance continue. Warnings are generally used when it is determined that an exchange of information alone would not be sufficient in achieving compliance.

2.4.4 Administrative penalty

An administrative penalty may be imposed in relation to non-compliance with section 6 of the Act [emission limits] and prescribed contraventions as provided in the Greenhouse Gas Administrative Penalties and Appeals Regulation (GGEAPAR) and Part 4, Division 2 of the Act.

2.4.5 Court prosecution

A court prosecution is a legal proceeding initiated against a person or company alleged to have committed an offence(s). Formal charges may be recommended by ministry staff, including Conservation Officers, but are initiated by Crown Counsel in the exercise of their discretion.

2.4.6 Public reporting of enforcement actions

Information related to inspections and enforcement actions taken under GGIRCA may be published in accordance with ministry policies and procedures and applicable legislation.

2.5 Responding to non-compliance by verification bodies and validation bodies

The following tools are available to address non-compliance on the part of verification bodies and validation bodies:

2.5.1 Compliance promotion

Promotion may be conducted as a stand-alone activity or it may occur in conjunction with compliance verification activities, including inspection of verification records or processes.

2.5.2 Submission of a formal complaint to the verification body

A formal complaint to the verification body and its issue resolution process may be submitted.

2.5.3 Formal referral to an accreditation body

A formal referral of non-compliance to an accreditation body may result in additional requirements or suspension of the verification body.