

 <p>BRITISH COLUMBIA</p>	<p>Ministry of Energy and Mines</p> <p><i>Issued: July 2013 Revised: July 2016</i></p>	<p>Renewable and Low Carbon Fuel Requirements Regulation</p> <p>Clarification of Part 3 fuel supplier in relation to Emerging Fuels</p> <p>Information Bulletin RLCF-009</p>
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Background

The *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act* (the Act) imposes low carbon fuel requirements on “Part 3 fuel suppliers.” A Part 3 fuel supplier is a person that sells Part 3 fuel for the first time, or uses it before such sale, after it is manufactured in or brought into British Columbia.

Part 3 fuels include petroleum-based gasoline and diesel fuel, and products that can be blended with petroleum-based fuels, such as biodiesel and ethanol. Part 3 fuel may also include natural gas, propane, electricity, hydrogen and any additional fuels that are prescribed for the purposes of paragraph (b)(ii) of the definitions of “gasoline class fuel” and “diesel class fuel” (collectively “Emerging Fuels”). However, Emerging Fuels are only Part 3 fuels if the person selling the Emerging Fuel reasonably believes that the fuel will be used for transportation in substitution for gasoline or diesel fuel.

For Emerging Fuels, there has been confusion regarding the person that is the Part 3 fuel supplier, when fuel is considered to have been supplied, when the fuels are manufactured and who has the resulting regulatory obligations under the Act in respect of the Part 3 fuel. This note clarifies the Ministry of Energy and Mines’ position on which person is considered to be the Part 3 fuel supplier for particular types of Emerging Fuels.

Part 3 fuel supplier for Emerging Fuels

Electricity

For electricity, a person will be a Part 3 fuel supplier if all of the following conditions are met:

- (a) the person sells electricity in British Columbia and has a reasonable belief that some of the electricity they sell will be used for transportation in substitution for gasoline or diesel fuel, and
- (b) the person will be able to, by the deadline for submitting Part 3 compliance reports, identify a specific quantity of the electricity that they supplied which was used for transportation in substitution for gasoline or diesel fuel.

However, despite meeting the above criteria, the person will not be a Part 3 fuel supplier if all of the electricity they sold in substitution for gasoline or diesel fuel was originally sold to them by another person meeting the criteria in paragraphs (a) and (b).

For electricity, normally the Part 3 fuel supplier will be the utility that sells the electricity to end customers at the retail meter, provided the utility knows or reasonably expects that the electricity sold at the meter is or will be used for transportation by the customer. This is because the utility is expected to be the first person selling the electricity who meets both criteria (a) and (b) above.

Propane

For propane, a person will be a Part 3 fuel supplier if all of the following conditions are met:

- (a) the person sells propane in British Columbia and has a reasonable belief that some of the fuel they sell will be used for transportation in substitution for gasoline or diesel fuel, and
- (b) the person will be able to, by the deadline for submitting Part 3 compliance reports, identify a specific quantity of the propane that they supplied which was used for transportation in substitution for gasoline or diesel fuel.



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However, despite meeting the above criteria, the person will not be a Part 3 fuel supplier if all of the propane they sold in substitution for gasoline or diesel fuel was originally sold to them by another person meeting the criteria in paragraphs (a) and (b).

For propane, the Part 3 fuel supplier will normally be the person that owns the propane when it is sold from facilities that have valves and connections designed for dispensing of propane to vehicles. This is because this person is expected to be the first person selling the propane who meets both criteria (a) and (b) above.

Natural gas

Natural gas requires compression or liquefaction before it can be used in transportation. Natural gas will be considered to be “manufactured” at the time it is compressed, liquefied or otherwise processed so that it is suitable for use in transportation. It will be a Part 3 fuel so long as the owner has a reasonable belief that the compressed or liquefied natural gas will be used for transportation in substitution for gasoline or diesel fuel.

For natural gas, a person will be a Part 3 fuel supplier if all of the following conditions are met:

- (a) the person sells natural gas that has been liquefied or compressed so that it is suitable for use in transportation;
- (b) the person sells the natural gas in British Columbia and has a reasonable belief that some of the fuel they sell will be used for transportation in substitution for gasoline or diesel fuel, and
- (c) the person will be able to, by the deadline for submitting Part 3 compliance reports, identify a specific quantity of natural gas that they supplied which was used for transportation in substitution for gasoline or diesel fuel.

However, despite meeting the above criteria, the person will not be a Part 3 fuel supplier if all of the natural gas that person sold in substitution for gasoline or diesel fuel was original sold to them by another person meeting the criteria in paragraphs (a), (b) and (c).

If the fuel is not sold after it is compressed or liquefied so that it is suitable for use in transportation, the person who compresses or liquefies the fuel for their own transportation use will be considered to be the Part 3 fuel supplier.

Hydrogen

Hydrogen also requires compression or liquefaction before it can be used in transportation. Hydrogen will be considered to be “manufactured” at the time it is compressed, liquefied or otherwise processed so that it is suitable for use in transportation. It will be a Part 3 fuel so long as the owner has a reasonable belief that the compressed or liquefied hydrogen will be used for transportation in substitution for gasoline or diesel fuel.

For hydrogen, a person will be a Part 3 fuel supplier if all of the following conditions are met:

- (a) the person sells hydrogen that has been liquefied or compressed so that it is suitable for use in transportation;
- (b) the person sells the hydrogen in British Columbia and has a reasonable belief that some of the fuel they sell will be used for transportation in substitution for gasoline or diesel fuel, and



- (c) the person will be able to, by the deadline for submitting Part 3 compliance reports, identify a specific quantity of hydrogen that they supplied which was used for transportation in substitution for gasoline or diesel fuel.

However, despite meeting the above criteria, the person will not be a Part 3 fuel supplier if all of the hydrogen that person sold in substitution for gasoline or diesel fuel was originally sold to them by another person meeting the criteria in paragraphs (a), (b) and (c).

If the fuel is not sold after it is compressed or liquefied so that it is suitable for use in transportation, the person who compresses or liquefies the fuel for their own transportation use will be considered to be the Part 3 fuel supplier.

Reasonable belief

Unlike other types of fuels regulated under Part 3 of the Act, Emerging Fuels are commonly used for non-transportation purposes. The low carbon fuel requirements of the Act do not apply to fuel if a Part 3 fuel supplier expects on reasonable grounds that the Emerging Fuel they sell or use will be used for a purpose other than transportation.

For all Emerging Fuels, a Part 3 fuel supplier will only be considered to have supplied the Emerging Fuel if there is a reasonable basis for believing, as of the deadline for submitting compliance reports, that a specific amount of the Emerging Fuel that they sold was used for transportation in substitution for gasoline or diesel fuel. To be reasonable, there must be some basis for distinguishing this supply from other supplies.

For example, if a propane supplier can trace a specific quantity of propane used for transportation through the supply chain, they will have supplied that quantity and can request the validation of the associated Part 3 compliance credits. On the other hand, if a propane supplier estimates that 1% of its propane supply is used for transportation, and there is nothing distinguishing the first 1% from the next 1% other than marginal differences in statistical probability, it does not have a reasonable basis for reporting this fuel and requesting the validation of the associated credits.

Despite the above, if the Part 3 fuel supplier sells an Emerging Fuel that it believes will be used in substitution for gasoline or diesel fuel, and the Part 3 fuel supplier expects, on reasonable grounds, it will be used for a purpose other than transportation, that sale of fuel will not be considered to be a supply under the Act.

This Information Bulletin amends and replaces Information Bulletin RLCF-009 Issued in July 2013.



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Need more information?

Please see the Renewable and Low Carbon Fuel website at www.gov.bc.ca/lowcarbonfuels or email us at lcfr@gov.bc.ca

This information is for your convenience and guidance only, and does not replace or constitute legal advice. The *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act* and the Renewable and Low Carbon Fuel Requirements Regulation can be found on the internet at: <http://www.bclaws.ca>.