



Background

Compliance with Part 3 (low carbon fuel) requirements under the Renewable and Low Carbon Fuel Requirements Regulation (Regulation) is the responsibility of the person who sells a Part 3 fuel for the first time after it is manufactured in or brought into British Columbia. Suppliers, importers and manufacturers of Part 3 fuels may enter into “Exclusion Agreements” to transfer low carbon fuel requirements downstream from the point of first supply.

Exclusion Agreements

Exclusion Agreements are defined in section 1 (1) the Regulation, and encompass the agreements referred to in section 6.1 of the Regulation and section 7.1 of the *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act*.

Differences in carbon intensity are an important commercial and regulatory consideration for low carbon fuels. The seller of a low carbon fuel under an Exclusion Agreement must therefore provide the purchaser with specific information described in section 11.031 of the Regulation:

- A “Carbon Intensity Record” for each fuel being transferred under the Exclusion Agreement (see *Information Bulletin RLCF-006 Carbon Intensity Records*), and
- The identification and quantity of the fuel to which the record relates (see *Information Bulletin RLCF-016 Fuel Identification Requirements*).

The information above must be provided from the seller to the purchaser by the earlier of:

- 30 days after receiving a request from the purchaser (for fuels sold to date under the agreement), or
- January 31 following each compliance period (for the total quantity sold in the compliance period under the agreement).

The January 31 deadline is intended to ensure the effective compilation of low carbon fuel supply information by all Part 3 fuel suppliers, and to enable the submission of complete compliance reports by the March 31 reporting deadline following each compliance period.

If the information is not provided to the purchaser, the Director may request it and then provide it to the purchaser. Failure to provide the information to the Director may result in a penalty of up to \$100,000.

Exclusion Agreements and petroleum-based gasoline and diesel fuels

Section 11.031 information requirements do not apply to Exclusion Agreements for petroleum-based gasoline or diesel fuels, since these fuels have fixed carbon intensities under the Regulation.

Consistent with the established practice for agreements under section 6.1 of the Regulation, the seller of petroleum-based gasoline or petroleum-based diesel fuel under an Exclusion Agreement must provide the purchaser with the identification (e.g., gasoline) and quantity of the fuel sold under the agreement.

Section 6 Agreements and Part 2 fuels

Renewable fuel requirements for Part 2 fuels may also be transferred between suppliers, manufacturers and importers of Part 2 fuels under written agreements in accordance with section 6 of the Regulation. These have come to be known as “Section 6 Agreements”.

Section 11.031 information requirements do not apply to Section 6 Agreements. Consistent with the established practice, the seller of Part 2 fuels under a Section 6 Agreement must provide the purchaser with the identification (e.g., ethanol) and quantity of the fuel sold under the agreement.



Exclusion Reports

All persons who transfer fuel under an Exclusion Agreement are required to submit an annual “Exclusion Report” to the director. This requirement applies to all Part 3 fuels (i.e., low carbon fuels and petroleum-based fuels), and applies to Part 3 fuel suppliers and anyone who imports or manufactures fuel and sells it under an Exclusion Agreement.

Exclusion Reports are due on or before March 31 following the compliance period, and must include the following information:

- For each type of fuel purchased or sold under an Exclusion Agreement, report the seller or buyer and the quantity; and
- For each type of fuel that you purchased under an Exclusion Agreement and did not sell under an Exclusion Agreement or supply, report the quantity.

A person who sells all its Part 3 fuels under Exclusion Agreements is not a Part 3 fuel supplier, and is not required to file a Part 3 Compliance Report or Exemption Report. Such a person must still submit an Exclusion Report.

An Exclusion Report form (with instructions) can be downloaded from the Low Carbon Fuels Branch website at gov.bc.ca/lowcarbonfuels.

Exclusion Reports and Carbon Intensity Records

Exclusion Reports summarize the quantity of each type of fuel (e.g., ethanol, gasoline) included in an Exclusion Agreement with a given supplier, importer or manufacturer of a Part 3 fuel.

Carbon Intensity Records are not required in Exclusion Reports, but may be requested by the Director or as part of the inspection program under the Regulation.

Exclusion Reports and Section 6 Agreements

Exclusion Reports are not required for Section 6 Agreements in relation to Part 2 fuels.

Need more information?

Please see the Renewable and Low Carbon Fuel website at <http://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. It is recommended that parties who may be a Part 3 Fuel Supplier review the *Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act* and the Renewable and Low Carbon Fuel Requirements Regulation seek independent legal advice to confirm their status, legal obligations and opportunities. 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>.