	<p>Ministry of Energy, Mines and Low Carbon Innovation</p> <p><i>Issued: February 2022</i></p>	<p>Renewable and Low Carbon Fuel Requirements Regulation</p> <p>Administrative Monetary Penalties</p> <p>Information Bulletin RLCF-021</p>
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Background

The Ministry of Energy, Mines and Low Carbon Innovation (Ministry) uses a variety of compliance and enforcement tools to gather information, obtain compliance, and deter future non-compliance with the [Greenhouse Gas Reduction \(Renewable & Low Carbon Fuel Requirements\) Act](#) (the “Act”) and the [Renewable & Low Carbon Fuel Requirements Regulation](#) (the “Regulation”).

The Ministry gives consideration to the most appropriate tool necessary to obtain compliance. Compliance and enforcement tools include educational advisories, informal communications, formal letters (information request and/or warning), audits, inspections, administrative monetary penalties, and court prosecution.

Compliance and enforcement reporting demonstrates the Ministry's commitment to maintaining openness, transparency, and accountability. The Ministry provides online access to information related to its compliance and enforcement actions. Public reporting of compliance and enforcement activities promotes compliance with laws and regulations.

Administrative monetary penalties

Administrative monetary penalties are financial penalties imposed on a person or a business for non-compliance with a regulatory requirement. Administrative penalties may be an appropriate response to non-compliance where a regulated party has contravened a regulatory requirement.

All compliance actions will be reported publicly as contemplated by section 20 of the Regulation, which authorizes the minister to publish all the following information in respect of a fuel supplier on whom an administrative penalty has been imposed under section 9, 10, 11 or 12 of the Act:

- (a) legal name;
- (b) amount of the penalty; and
- (c) the provision of the Act or regulations with which the fuel supplier failed to comply.

There are three types of administrative monetary penalties that apply under the LCFS:

- automatic administrative monetary penalties, based on suppliers’ compliance reports indicating non-compliance with section 2 or 6 of the Act;
- imposed administrative monetary penalties based on the statutory director’s determination of suppliers’ non-compliance with section 2 or 6 of the Act; and
- administrative penalties in relation to non-compliance with other requirements of the Act or Regulation.

Automatic administrative monetary penalties

“Automatic administrative penalty” refers to a non-appealable penalty that a fuel supplier is automatically required to pay if the supplier’s compliance report indicates that they are in non-compliance with either section 2 [*Renewable Fuel Requirements*] or section 6 [*Low Carbon Fuel Requirements*] of the Act. Payment must accompany the submission of the compliance report, which is due March 31 following each compliance period.

Renewable fuel requirements

An automatic administrative monetary penalty must be paid if a fuel supplier’s Part 2 compliance report indicates that the supplier has failed to comply with the renewable fuel requirements for either diesel class



fuel or gasoline class fuel under section 2 of the Act. The supplier must pay a penalty based on the volume of renewable fuel that should have been supplied in relation to either fuel class. The amount of the penalty is calculated by the formula:

$$([Renewable\ fuel\ required\ for\ class] - [Renewable\ fuel\ supplied\ in\ class]) \times [Penalty\ rate]$$

The penalty rates are 30¢/L for a renewable content deficit in the gasoline class pool and 45¢/L for a renewable content deficit in the diesel class pool.

Low carbon fuel requirements

An automatic administrative monetary penalty must be paid if a fuel supplier's Part 3 compliance report indicates that the supplier has failed to comply with the carbon intensity limit for a given compliance period under section 6 of the Act. The supplier must pay a penalty to retire debits that have not been offset by credits earned in the same compliance period. The amount of the penalty is calculated by the formula:

$$([Gross\ debits] - [Gross\ credits]) \times [Penalty\ rate]$$

Gross debits include:

All the debits generated by the supplier's supply of Part 3 fuel during a compliance period based on section 6(4) of the Act;

plus

Any debits generated in the compliance period transferred to the supplier under section 11.11 of the Regulation;

minus

Any debits generated in the compliance period transferred from the supplier.

Debits from previous compliance periods which have been previously set off against credits or for which a penalty has been paid are not carried forward.

Gross credits include:

All the credits generated by the supplier's supply of Part 3 fuel during a compliance period based on section 6(4) of the Act,

plus

Any validated credits from the current or earlier compliance periods that have been transferred to the supplier under section 11.11 of the Regulation that have not been previously set off against debits;


plus

Credits carried over from previous compliance periods that have not been set off against debits for those previous compliance periods or transferred under section 11.11 of the Regulation;

minus

Any credits generated in the compliance period transferred from the supplier.

Credits from previous compliance periods which have been previously set off against debits are not carried forward.

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The penalty rate is \$200/net low carbon fuel debit. Penalties of up to 10% of outstanding balances can be imposed for each 14-day period a penalty balance remains unpaid.

Imposed administrative penalties

“Imposed administrative penalty” refers to a penalty that is imposed on a fuel supplier by the statutory director for non-compliance with section 2 or 6 of the Act, where the non-compliance is not reported in the supplier’s compliance report or where the supplier has failed to submit a report. The Act requires the director to impose a penalty in any situation where they are satisfied that there is non-compliance with section 2 or 6 that has not been reported in a compliance period. The Regulation sets out rules providing an opportunity to be heard prior to imposing any penalties.

Imposed administrative penalties are calculated in the same manner as automatic penalties.

Administrative penalties in relation to other matters

For other non-compliances with the Act or Regulation other than sections 2 and 6 of the Act, the director has a discretion to impose penalties. Part 3 of the Regulation outlines prescribed contraventions and maximum amounts that can be imposed for a contravention, and other matters related to imposing this form of penalty.

These administrative penalties must be paid within 30 days from the date that the penalty is imposed.

Who can impose an administrative monetary penalty?

Administrative monetary penalties are issued by the director appointed by the Minister under the Act. The director is advised by senior staff who understand the intent of the regulatory requirements as well as the principles of administrative fairness and the standards that must be met.

History of penalties imposed

Table 1 on the following page contains a complete list of compliance actions that have resulted in compliance penalties being paid by fuel suppliers.



**Ministry of
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Renewable and Low Carbon Fuel Requirements Regulation

Administrative Monetary Penalties

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Table 1. List of compliance actions that have resulted in administrative monetary penalties.

Compliance Period	Company Name	Provision of the Act or Regulation	Amount of Penalty
2020	Federated Co-operatives Ltd.	Part 3 requirements under section 6 of the <i>Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act</i>	\$13,932,800.00
2020	Elbow River Marketing Ltd.	Part 2 requirements under section 2 of the <i>Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act</i>	\$1,861.65
2019	Federated Co-operatives Ltd.	Part 3 requirements under section 6 of the <i>Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act</i>	\$5,214,000.00
2019	Husky Oil Operations Ltd.	Part 3 requirements under section 6 of the <i>Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act</i>	\$329,200.00

Need more information?

Please see the Renewable and Low Carbon Fuel website at <http://gov.bc.ca/lowcarbonfuels> or email us at lcfs@gov.bc.ca

This information is for your convenience and guidance only and does not replace or constitute legal advice. Exceptions to the above may apply in certain circumstances. 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>.