



Low Carbon Fuels Act

The new Act implementing the Low Carbon Fuel Standard

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The Government of British Columbia intends to update the LCFS on January 1, 2023. In general, the LCFS is functioning as intended, but it is time to use the knowledge gained over the past decade to prepare the LCFS for further reductions.

The new Act is intended to:

- Prepare the LCFS to continue to be effective to 2030 and beyond
- Improve clarity
- Strengthen administrative provisions
- Enable more GHG reductions
- Accelerate the transition to low-carbon energy while minimizing cost impact to consumers and supporting economic growth in British Columbia

Interpretation



What Remains the Same?

- Focus continues to be reducing the use of fossil fuel by encouraging the increased use of low carbon alternatives
- Fuel categories, now described as “**base fuels**”
 - gasoline, diesel
 - base fuels will continue to have single, fixed carbon intensities
- Other fuels are either “**components**” or “**alternatives**” for base fuels

What is New?

- A new name!!
 - The *Low Carbon Fuels Act*
- Scope has been broadened slightly to empower action in applications other than fuels with a transportation end use
- The term “**base fuel**” defines categories
 - fossil-derived gasoline, fossil-derived diesel fuel, fossil-derived jet fuel
 - other base fuels to be prescribed



- The legislative changes will improve the hierarchy of roles under the Act for more effective administration:
 - The Act provides general authorizations
 - The Lieutenant Governor in Council prescribes policy issues such as overall reduction targets and penalty amounts
 - The Minister prescribes fuel types, technical parameters, etc., that apply generally to all suppliers
 - The Director makes decisions relevant to administration or that apply on a case-by-case basis
- Administrative monetary penalties are part of the regulation currently under development. Changes to the monetary amounts is under consideration as part of that development.

Responsibility for Fuel



- Anyone who provides fuel is a supplier and may be subject to the Act
- The supplier who is responsible for compliance is the same party as under the current Act
- Responsibility for a fuel can be transferred from one person to another through allocation agreements
- Export of previously reported fuel must be reported

Responsible Suppliers



- **Type A fuel** is a fuel manufactured or imported to be transportation fuel. All base fuels are type A fuels.
- **Type B fuel** is a fuel that can only be identified as an alternative to a base fuel when it is supplied with knowledge of its final use (e.g., natural gas, electricity)

For **Type A fuel**, anyone who:

- imports fuel,
- manufactures fuel,
- is made responsible by a regulation, or
- accepts responsibility for the fuel through an allocation agreement

is a **responsible supplier**.

For **Type B fuel**, anyone who:

- supplies fuel through **final supply equipment**,
- is made responsible by a regulation, or
- accepts responsibility for the fuel through an allocation agreement

is a **responsible supplier**.

Allocation Agreement



- If a supplier transfers fuel to another supplier under an **allocation agreement**, the second supplier becomes the responsible supplier, and the first supplier is no longer the responsible supplier.
- A supplier who is the responsible supplier for fuel at the end of the compliance period is considered to have **marketed** the fuel.
- Only one supplier will be required to comply for a specific quantity of fuel.

Renewable Fuel Requirement



- Renewable fuel requirements are the same as in the old Act
- New Requirements may include:
 - Aviation fuel may require a minimum renewable content in order to guarantee action in this category.
 - Other fuel categories may be added through Cabinet regulation, this would include marine fuels in the future.



A “**compliance unit**” is the new term related to debits and credits. A positive number of compliance units is a credit, and a negative number is a debit.

$$\text{number} = (\text{TCI} \times \text{EER} - (\text{RCI} + \text{UCI})) * \frac{\text{EC}}{1,000,000 \text{ grams}}$$

where

number = compliance units (debit or credit) in tonnes of CO₂e

TCI = the target carbon intensity for the fuel

EER = energy effectiveness ratio for the use of the fuel

RCI = the recorded carbon intensity of the fuel

New: UCI = the additional carbon intensity attributed to the use of the fuel

EC = the energy content of the fuel in megajoules (depends on quantity)



- Reduction targets must be set for each category of fuel
- Targets will now be prescribed as percentage reductions from the fossil-based fuel baseline carbon intensity
- In the new Act:
 - Targets are set independently of the choice of Lifecycle Analysis model
 - For the compliance calculation, targets are translated to carbon intensity using the equation $TCI = BCI \times (1 - R)$, where
 - BCI is the carbon intensity prescribed by the Minister for the base fuel
 - R is the reduction prescribed by Cabinet for the category, expressed as a percentage

Credits

Acquiring Credits

- Currently Fuel suppliers can obtain credits for achieving compliance with the LCFS by:
 - Supplying low carbon fuels,
 - Buying credits from low carbon fuel suppliers,
 - Earning credits through Initiative Agreements.
- The new Act adds:
 - Capturing CO₂ in B.C. from ambient air and permanently sequestering it.

Trading Credits

- Under the current Act, the real barrier to becoming a recognized supplier eligible to trade is trivial.
- In the new Act anyone may trade credits, provided they are registered to do so.
 - Cabinet may prescribe requirements for registration.

Determining Carbon Intensity



What remains the same?

- Director can approve and post carbon intensities for suppliers to rely on.
- Base fuel carbon intensity continues to be prescribed, but now by the Minister.

What is new?

- Director may impose a carbon intensity if the producer does not apply.
- Minister prescribes the LCA model (including version) that must be used.
- Minister prescribes conditions under which alternative methods will be accepted.
- Director determines whether prescribed requirements have been met when approving the carbon intensity.



- These sections are entirely new under the Act:
 - Cabinet may prescribe utilities for which Part 5 – Public and Local Utilities applies.
 - A prescribed utility is required to sell 75 percent of the credits earned for supply other than supply to existing TransLink and electric trolley bus routes and place the proceeds into an Initiative Fund.
 - Cabinet regulations will set governance rules for spending the proceeds of credit sales in accordance with approved Initiative Plans.
 - Minister oversees the Initiative Plans and the expenditures from the Initiative Funds.

Reports



- Reports and reporting requirements will remain much the same under the new Act.
 - Reports are mandatory and must contain information sufficient for Ministry staff to evaluate compliance with the statute.
 - Additional information can be demanded by the director if the initial report does not provide enough clarity.
 - Information that supports the reports must be maintained and kept for a period of six years following the compliance period.



- The director assesses each compliance report before credit balances are confirmed.
- The Act sets out:
 - Factors that the director must consider in their assessment (or reassessment),
 - Procedures for notifying the supplier of the results of the assessment,
 - Procedures for dispute resolution,
 - Record keeping requirements.
- Information supporting reports can be audited by inspectors appointed by the director.



New clarification in the Act:

- The minister or the director can require that information supporting carbon intensity claims be verified by third parties who have been authorized in accordance with regulations of the minister.
- Verification standards, protocols and training will be developed in co-ordination with the practices of California and Oregon, who have recently finalized their standards in this area.

Penalties

- Automatic penalties will continue to be prescribed by regulation.
 - Renewable fuel content penalties would be the same for gasoline and diesel fuel.
 - A new penalty needs to be set for jet fuel.
 - The penalty for non-compliance is currently \$200. This amount is under review.
 - Any contravention of the Act subject to administrative penalties can also be prosecuted as an offence, with penalties up to \$1,000,000 per day and up to six months imprisonment.
 - Prosecution is extremely unlikely, but offence provisions provide certainty that the legislation considers lack of compliance to be a serious matter.

Reconsiderations and Appeals



- Regulations will prescribe a process for the director to follow when imposing discretionary penalties
 - This will include requirements to provide a hearing before imposing a penalty
 - This approach is consistent with the director's authority to require additional information when a report is submitted
- Suppliers are entitled to request the director to reconsider other decisions of the director
- Suppliers who do not agree with a discretionary penalty or a director's reconsideration may appeal those decisions to the Environmental Appeals Board

- Regulation values will be set using the most current version of GHGenius.
 - Currently this is GHGenius 5.02
- EER (Energy Effectiveness Ratio) values will be updated, and more end uses will be identified to provide more accurate credit calculations.



Questions and Feedback

The Ministry will collaborate with Indigenous Peoples and engage with all stakeholders to discuss these proposed changes to the Low Carbon Fuel Standard in Spring/Summer 2022.

If you wish to offer feedback or have further questions, please send an email to LCFS@gov.bc.ca