

CLIMATE LEADERSHIP ACT CLIMATE LEADERSHIP REGULATIONS

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For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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CLIMATE LEADERSHIP ACT

CLIMATE LEADERSHIP REGULATIONS

CHAPTER C-9.1

Pursuant to section 59 of the *Climate Leadership Act* R.S.P.E.I. 1988, Cap. C-9.1, Council made the following regulations:

PART 1 - INTERPRETATION

1. Definitions

In these regulations,

- (a) "Act" means the *Climate Leadership Act* R.S.P.E.I. 1988, Cap. C-9.1;
- (b) "calendar month" means the period beginning on the first day of a month and ending on the last day of the month;
- (c) "calendar quarter" means a period of 3 months beginning on the first day of January, April, July and October in each calendar year;
- (d) "levy exemption permit" means a levy exemption permit issued under section 11 that is valid and subsisting;
- (e) "**permit number**" means the number assigned to a levy exemption permit;
- (f) "registration certificate" means a certificate issued to an agent pursuant to section 41 of the Act;
- (g) "**registration number**" means the number assigned to a registration certificate;
- (h) "**reporting period**" means a calendar month, a calendar quarter or a calendar year. (EC57/2019)

2. Exception, "agricultural operations"

- (1) For the purposes of clause 1(b) of the Act, agricultural operations do not include
 - (a) the business of adding value to farm products by manufacturing, packaging, mixing, grinding or otherwise processing them, when carried out by any person other than the farmer that produced them;
 - (b) the renting out by a lessor of farm land, buildings, livestock, motor vehicles, machinery or other assets, and any activities related to the maintenance or improvement of the rented items;
 - (c) the breeding, raising or both of animals commonly kept as pets;

- (d) the use of farm machinery or farm trucks or both for a purpose other than agricultural operations in the province;
- (e) the use of any vehicle or machinery other than farm machinery or farm trucks or both:
- (e.1) the use of any farm machinery or farm truck for hire, personal use, or the transportation of agricultural products, inputs or machines for the purpose of sales or marketing:
- (f) any activity carried out by a person who is neither a farmer nor a custom agricultural contractor;
- (g) the business of constructing farm buildings or farm fences by any person other than the farmer using those structures;
- (h) the heating or cooling of farm buildings;
- (i) the business of providing various services or sales, or both, to a farmer, including but not limited to
 - (i) banking, accounting, consulting or veterinary and other animal health services, and
 - (ii) sales and services of various production inputs and farm machinery.

Exception, "commercial fishing operations"

- (2) For the purposes of clause 1(g) of the Act, commercial fishing operations do not include
 - (a) the use of boats for a purpose other than commercial fishing operations in the province;
 - (b) the use of any vehicle or machinery other than boats;
 - (c) any activity carried out by a person who is not a commercial fisher;
 - (d) the business of providing various services or sales, or both, to a commercial fisher, including but not limited to
 - (i) banking, accounting, consulting or veterinary and other animal health services, and
 - (ii) sales and services of various production inputs and fishing equipment;
 - (e) constructing buildings, boats or other equipment.

Exception, "aquaculture operations"

- (3) For the purposes of clause 1(c) of the Act, aquaculture operations do not include
 - (a) the use of boats or other equipment for a purpose other than aquaculture operations in the province;
 - (b) the use of any vehicle or machinery other than boats or other equipment;
 - (c) any activity carried out by a person who is not an aquaculturist;
 - (d) the business of providing various services or sales, or both, to an aquaculturist, including but not limited to
 - (i) banking, accounting, consulting, or veterinary and other animal health services, and
 - (ii) sales and services of various production inputs and aquaculture equipment;
 - (e) the business of constructing, buildings , enclosures, boats or other equipment. (EC57/2019; 456/20)

PART 2 - CALCULATION AND PAYMENT OF LEVY

Time of Payment of Levy

3. When levy payable by consumer

(1) Subject to section 5, for the purposes of subsection 6(1) of the Act, the levy is payable by a consumer at the time the fuel is used.

Calculation of levy

(2) A consumer required to pay the levy pursuant to subsection 6(1) of the Act shall pay the levy in accordance with the formula

$$(A - B) \times C$$

where

- A is the amount of fuel that was used by the consumer;
- B is the amount of fuel in respect of which the consumer was exempt from paying the levy;
- C is the levy rate for the fuel at the time the fuel was used, as set out in Table 1 in the Schedule to the Act. (EC57/2019)

4. Interjurisdictional road carriers

(1) For the purposes of subsection 7(2) of the Act, the levy is payable at the time the fuel is used.

Determination of amount

(2) For the purposes of subsection 7(2) of the Act, the amount of fuel used by the interjurisdictional road carrier shall be determined in accordance with the *Gasoline Tax Act* R.S.P.E.I. 1988, Cap. G-3. (EC57/2019)

5. Calculation of levy payable by agent

- (1) For the purposes of subsection 8(1) of the Act, where the levy is payable on fuel used by an agent, the agent shall calculate the levy payable in accordance with section 3 or in accordance with
 - (a) section 6, where the fuel included a proportion of biomass;
 - (b) section 7, where the fuel included a proportion of a second fuel; or
 - (c) section 8, where the fuel was rebranded.

Exception

(2) For the purposes of this section, an agent's own use of fuel does not include fuel purchased and used by the agent that the agent was not entitled to purchase exempt from the levy. (EC57/2019)

Special Rules

6. Prescribed proportion of biomass

For the purposes of clause 9(1)(c) of the Act, where the proportion of biomass

(a) in an amount of gasoline is greater than 10%; or

(b) in an amount of diesel is greater than 5%,

the levy payable on the gasoline or diesel, as the case may be, is determined by the formula

$$(A - B) \times C/D$$

where

A is the amount of gasoline or diesel, as the case may be;

B is the amount of biomass in the amount of gasoline or diesel, as the case may be;

C is the rate for gasoline or diesel, as the case may be, as set out in Table 1 in the Schedule to the Act; and

D is, in the case of gasoline, 95%, and in the case of diesel, 98%. (EC57/2019)

7. Prescribed proportion of second fuel

(1) For the purposes of clause 9(1)(b) and clause 9(1)(c) of the Act, the prescribed proportion of a second fuel is 10%.

Greater proportion of mixed or blended fuels

- Where the proportion of a fuel or fuels included in a substance that contains more than one fuel, other than the fuel that is present in the highest amount, exceeds 10%,
 - (a) the substance is prescribed as a mixture or blend for the purposes of clause 9(1)(c) of the Act; and
 - (b) the proportions of each fuel in the substance shall be determined.

Mixture or blend

(3) Where the proportion of each fuel included in a substance that contains more than one fuel is known, the substance is prescribed as a mixture or blend for the purposes of section 9 of the Act.

Calculation of levy payable

(4) Subject to sections 11 and 60 of the Act and subsection (5), for the purposes of subsection 9(1) of the Act, the levy payable on a mixture or blend is the aggregate of the amounts for each fuel included in the mixture or blend calculated in accordance with the formula

where

A is the amount of the particular fuel included in the mixture or blend; and

B is the levy rate for that type of fuel, at the time the levy is required to be paid under the sections of the Act that apply to that fuel, as set out in Table 1 in the Schedule to the Act.

Calculation - change in levy rate

(5) Where the levy rate applicable to a fuel included in a mixture or blend changes in a reporting period and the agent is unable to determine the amount of fuel used on each day in the reporting period, the levy payable for the reporting period is the aggregate of the amounts for each fuel included in the mixture or blend calculated in accordance with the formula

$$(A \times B \times C/D) + (A \times E \times F/D)$$

where

A is the amount of fuel subject to the levy that was used in the reporting period;

B is the levy rate for the fuel as set out in the Table in Schedule A of the Act prior to the rate change (in this subsection referred to as "rate B");

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- C is the number of days in the reporting period during which rate B was in effect;
- D is the number of days in the reporting period;
- E is the levy rate for the fuel as set out in Table 1 in the Schedule to the Act after the rate change (in this subsection referred to as "rate E"); and
- F is the number of days in the reporting period during which rate E was in effect. (EC57/2019)

8. Rebranded fuel

For the purposes of subsection 10(1) of the Act, the levy required to be paid by an agent when fuel is rebranded is the amount by which A exceeds B where

- A is the levy computed in accordance with the Act and these regulations that would otherwise be required to be paid on the fuel after it is rebranded; and
- B is the levy computed in accordance with the Act and these regulations that was required to be paid on the fuel before it was rebranded. (EC57/2019)

Change in Levy Rate

9. Calculation - amount payable

(1) For the purposes of subsection 11(4) of the Act, where the levy rate on the fuel has increased, the vendor referred to in subsection 11(3) of the Act shall pay to the Commissioner the amount calculated in accordance with the formula

$$A - B$$

where

- A is the levy that would otherwise be required to be paid on the fuel if the fuel had been purchased on the day on which the rate on the fuel increased; and
- B is the levy that was required to be paid by the vendor on the fuel.

Remittance by vendor

(2) The levy payable by the vendor referred to in subsection (1) shall be remitted in accordance with section 18 of these regulations.

Calculation - amount to be refunded

(3) For the purposes of subsection 11(5) of the Act, where the levy rate on the fuel has decreased, a vendor that files a report in accordance with subsection 11(3) of the Act is entitled to a refund of the portion of the levy that was paid in respect of the fuel equal to the amount calculated in accordance with the formula

$$B - A$$

where

- A is the levy that would otherwise be required to be paid on the fuel if the fuel had been purchased on the day on which the rate on the fuel decreased; and
- B is the levy that was required to be paid by the vendor on the fuel. (EC57/2019)

PART 3 - EXEMPTIONS

Levy Exemptions

10. Exemption - covered facility

(1) A purchaser is exempt from paying the levy on gasoline or diesel purchased pursuant to section 22 of the Act and used in the operation of a covered facility only if the gasoline or diesel is marked fuel.

Exemption - prepackaged fuels, capacity

(2) For the purposes of the exemption authorized under section 24 of the Act, the capacity of prepackaged fuels in factory-sealed containers is 10 litres or less. (EC57/2019)

11. Application for levy exemption permit

- (1) The following persons may apply in the form approved by the Commissioner for a levy exemption permit to purchase marked fuel exempt from the levy:
 - (a) a farmer for agricultural operations on a farm;
 - (b) a fisher for commercial fishing operations;
 - (c) an aquaculturist for aquaculture operations;
 - (d) a custom agricultural contractor for custom agricultural contracting operations on a farm.

Information required

- (2) The applicant for a levy exemption permit shall provide the following information:
 - (a) the applicant's name and the names of any partners or the applicant's corporation, if any;
 - (b) the name of the applicant's business, if different from the information provided under clause (a);
 - (c) the physical location of the applicant's business;
 - (d) the mailing address of the applicant's business;
 - (e) the applicant's Federal Business Number or Harmonized Sales Tax number;
 - (f) the applicant's previous levy exemption permit number, if applicable;
 - (g) the name of the previous owner and date of ownership change of the business, if applicable;
 - (h) number, type and location or home port of any license, lease or permit held, if applicable;
 - (i) parcel number and location of each relevant property owned, leased or cultivated, if applicable;
 - (j) type and quantity of crops cultivated and livestock raised, if applicable;
 - (k) all equipment in which levy exempt fuel is to be used, including the type, make, model, horsepower, fuel type and, if applicable, the name and identification number;
 - (l) the estimated total annual fuel consumption of the equipment listed pursuant to clause (k);
 - (m) invoices and other information that show income earned by the applicant's business;

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(n) other information required by the Commissioner to determine the applicant's eligibility.

Certification

(3) The applicant shall sign and date the application and certify that the information provided is correct

Review by Commissioner

(4) On receipt of an application under subsection (1), the Commissioner shall review the application and may request additional information to determine the applicant's eligibility.

Issuance of permit

(5) Where the Commissioner approves the application, the Commissioner shall issue a levy exemption permit containing the name and address of the permit holder, the exempt operation, the permit number and the expiry date and identifying the type of fuel on which the permit holder is exempt from paying the levy.

Grounds for refusal

- (6) The Commissioner may refuse to issue a levy exemption permit to an applicant where
 - (a) the Commissioner determines that the applicant is not eligible for an exemption from paying the levy on fuel;
 - (b) the Commissioner determines that some or all of the information provided on the application is false or misleading;
 - (c) the applicant holds a valid levy exemption permit in respect of the same fuel;
 - (d) the Commissioner determines that the applicant has been convicted of a contravention of the Act or these regulations or any other enactment that provides for the imposition of a tax or levy on fuel; or
 - (e) the Commissioner considers it appropriate to refuse to issue a levy exemption permit to the applicant in the circumstances. (EC57/2019)

12. Evidence of eligibility

(1) A purchaser is not entitled to purchase fuel exempt from the levy unless the purchaser provides evidence of eligibility in accordance with this section at the time the fuel is purchased.

Sections 13 to 16 of Act

(2) A purchaser who claims an exemption under any of sections 13 to 16 of the Act shall present to the vendor a levy exemption permit or confirmation from the Commissioner that the purchaser holds a levy exemption permit.

Record by vendor

(3) The vendor shall record the permit number and expiry date of a levy exemption permit presented by the purchaser.

Sections 17 to 20 of Act

(4) A purchaser who claims an exemption under any of sections 17 to 20 of the Act shall present to the vendor a letter from the Commissioner stating that the purchaser is exempt.

Retention by vendor

(5) The vendor shall retain a copy of the letter presented by the purchaser as evidence of the exemption.

Section 21 or 22 of Act

(6) A purchaser who claims an exemption under section 21 or 22 of the Act shall present to the vendor a levy exemption permit issued on behalf of the province of registration of the marine craft or a covered facility certificate, as the case may be.

Record by vendor

(7) The vendor shall record the permit number and jurisdiction of issue or the certificate number, as the case may be. (*EC57/2019*)

13. Fee for issuance of permit

(1) The fee for the issuance of a levy exemption permit is \$10 and shall be paid to the Minister before the Commissioner issues a levy exemption permit.

Conditions or restrictions

(2) The Minister may attach conditions or restrictions to any levy exemption permit.

Compliance required

(3) No person who is the holder of a levy exemption permit shall fail to comply with the conditions attached to or fail to observe the restrictions contained in the permit.

Expiry

- (4) A levy exemption permit expires on the earliest of
 - (a) the expiry date shown on the permit;
 - (b) the date the person to whom the permit was issued ceases to be entitled to purchase fuel exempt from the levy;
 - (c) where the permit holder is a corporation, the date the permit holder
 - (i) amalgamates with another corporation,
 - (ii) is wound up, liquidated or dissolved, or
 - (iii) is the subject of any proceedings under the *Companies' Creditors Arrangement Act* (Canada);
 - (d) where the permit holder is a partner in a partnership, the date there is a change in the partners of the partnership;
 - (e) where the permit holder is a member of a joint venture, the date there is a change in the operator of a joint venture; and
 - (f) the date the permit is cancelled by the Commissioner.

Prohibition

(5) No person who has been issued a levy exemption permit shall permit another person to use the levy exemption permit.

Same

(6) No person shall use a levy exemption permit issued in the name of another person.

Suspension, cancellation

- (7) The Commissioner may suspend or cancel a levy exemption permit where
 - (a) the Commissioner determines that the holder of the permit has failed to comply with the conditions or failed to observe the restrictions attached to the permit by the Minister;
 - (b) the Commissioner determines that the holder of the permit is no longer eligible for the exemption from paying the levy on fuel;
 - (c) the Commissioner determines that information provided to the Commissioner by the holder of the permit is false or misleading;
 - (d) the permit has been lost, stolen, destroyed or is unusable;
 - (e) the Commissioner believes that the permit has been sold to, or is in the possession of or being used by, a person other than the person to whom it was issued;
 - (f) the Commissioner determines that the holder of the permit has been convicted of a contravention of the Act or these regulations or any other enactment that provides for the imposition of a levy on fuel; or
 - (g) the Commissioner considers it appropriate to suspend or cancel the permit in the circumstances.

Period of suspension

(8) Where the Commissioner has suspended a levy exemption permit under clause (7)(f), the period of suspension shall be for a period of 60 days for the first conviction, six months for the second conviction and one year for any subsequent conviction.

Notice of suspension, cancellation

(9) Where the Commissioner has suspended or cancelled a levy exemption permit, the Commissioner shall notify the holder of the permit and all agents of that fact.

Reinstatement

(10) The Commissioner may reinstate a levy exemption permit that was suspended under subsection (7) where the Commissioner is satisfied by evidence provided by the holder of permit that the holder is now in compliance with all conditions or restrictions that apply to the permit.

Notice of reinstatement

(11) Where a levy exemption permit is reinstated under subsection (10), the Commissioner shall notify the holder of the permit and all agents of that fact.

Replacement

(12) Where a levy exemption permit has been cancelled for the reason referred to in clause (7)(d) and the permit holder satisfies the Commissioner that the permit has not been sold or is not in the possession of or being used by someone other than the person to whom it was issued, the Commissioner shall issue a replacement permit. (EC57/2019)

14. Duty to notify

The holder of a levy exemption permit shall immediately notify the Commissioner where

- (a) the holder ceases to conduct activities that qualified the holder for the permit;
- (b) the holder is the subject of proceedings relating to bankruptcy, insolvency or receivership;
- (c) the holder, where the holder is a corporation,

- (i) amalgamates with another corporation,
- (ii) is wound up, liquidated or dissolved, or
- (iii) is the subject of proceedings under the *Companies' Creditors Arrangement Act* (Canada);
- (d) the holder is a partner in a partnership and there is a change in the partners of the partnership; or
- (e) the holder is the operator of a joint venture and there is a change in the participants in the joint venture. (EC57/2019)

15. Sale of fuel exempt from levy by vendor

(1) Subject to subsections (2) and (3), a vendor shall, before selling fuel exempt from the levy, take reasonable steps to ensure that the fuel is intended to be used as specified on the levy exemption permit.

Reporting

(2) A vendor shall report sales of fuel exempt from the levy to the Commissioner at the time and in the form approved by the Commissioner.

Information to be provided

- (3) The vendor shall provide the following information:
 - (a) name and address of the vendor;
 - (b) dates covered by the reporting period;
 - (c) in respect of each sale of fuel in the reporting period,
 - (i) the type of fuel sold,
 - (ii) the date of the sale,
 - (iii) the permit number of purchaser, if applicable,
 - (iv) the quantity of fuel sold in the transaction,
 - (v) the name of purchaser of fuel, and
 - (vi) the location of the sale; and
 - (d) the total quantity of fuel sold in the reporting period.

Certification

(4) The vendor shall sign and date the report and certify that the information provided is correct.

Proof of payment of levy

(5) The Commissioner may require a vendor to provide proof that the vendor has purchased and has paid the levy in respect of fuel that was sold exempt from the levy before paying a refund to the vendor under section 40 of the Act in respect of that fuel. (EC57/2019)

16. Possession of marked fuel

For the purposes of clause 30(1)(b) of the Act, a person is eligible to be in possession of marked fuel if the person is eligible to be in possession of the marked fuel under sections 15 or 38 of the *Gasoline Tax Act* Regulations (EC283/72). (EC57/2019)

PART 4 - REMITTANCE AND REFUNDS

Remittance of Levy

17. Reporting period for remittance by agent

(1) Subject to subsection (2), the reporting period for the remittance of the levy by an agent is a calendar month.

Different reporting period

(2) The Commissioner may, in respect of particular operations or activities of an agent, approve a different reporting period from the period specified in subsection (1).

Time for remittance

(3) An agent shall remit the levy payable in respect of a reporting period so that it is received by the Minister not later than 25 days following the end of that reporting period.

Written direction

(4) The Commissioner may require an agent to remit the levy earlier than the date stipulated under this section by providing a direction in writing to that effect to the agent.

Remittance - amount for which agent is liable

(5) An agent required to remit an amount pursuant to subsection 6(3) of the Act in respect of an amount for which the agent is liable pursuant to section 31 of the Act shall remit the amount payable in a reporting period so that it is received by the Minister not later than 25 days following the end of that reporting period.

Remittance - levy payable

(6) An agent required to remit the levy pursuant to section 8, 9 or 10 of the Act shall remit the levy payable in a reporting period so that it is received by the Minister not later than 25 days following the end of that reporting period. (EC57/2019)

18. Remittance of levy by vendor

A vendor required to remit an amount pursuant to subsection 11(4) or subsection 60(5) of the Act in respect of an amount for which the vendor is liable pursuant to section 11 or 60 of the Act shall remit the amount payable so that it is received by the Minister not later than 30 days following the day on which the levy rate applicable to the type of fuel changed. (EC57/2019)

19. Remittance of levy by consumer

A person who is required to remit an amount pursuant to section 36 of the Act in respect of an amount for which the person is liable shall remit the amount to the Minister within 30 days from the date the amount becomes payable. (EC57/2019)

20. Remittance of levy - prohibited action

Subject to section 20.1, a person who is required to remit an amount pursuant to section 31 of the Act in respect of an amount for which the person is liable pursuant to section 28, 29 or 30 of the Act, as the case may be, shall remit the amount to the Minister within 30 days from the date the amount becomes payable. (EC57/2019; 456/20)

20.1 Remittance of levy - prohibited action

A person who is required pursuant to section 31 of the Act to remit the levy on marked fuel used in a farm truck for a use other than in agricultural operations shall remit the levy on or before March 31 of each year for the previous calendar year. (EC456/20)

Refund of Levy

21. Refund - clear fuel

- (1) The Commissioner may pay a refund under section 27 of the Act in respect of the levy paid on clear fuel for motive purposes where
 - (a) the fuel was used in the province in circumstances in which the Act would have permitted the use of marked fuel;
 - (b) the purchaser held a levy exemption permit entitling the person to purchase marked fuel at the time the fuel was purchased; and
 - (c) the Commissioner is satisfied that marked fuel was not reasonably available at the time the fuel was purchased.

Refund – clear fuel – farming operations

- (1.1) The Commissioner may pay a refund pursuant to section 27 of the Act in respect of the levy paid on clear fuel for use in a farm truck where
 - (a) the fuel was used in the province in circumstances in which the Act would have permitted the use of marked fuel;
 - (b) the purchaser held a levy exemption permit entitling the person to purchase marked fuel at the time the fuel was purchased; and
 - (c) the fuel was used in the farm truck.

Refund - aviation fuel

(2) The Commissioner may pay a refund under section 27 of the Act in respect of the levy paid on aviation gas or aviation jet fuel where the fuel was used by a purchaser for a purpose or use for which the purchaser would have been entitled to purchase the fuel exempt from the levy had the purchaser provided evidence of exemption at the time the fuel was purchased.

Application for refund

- (3) An application for a refund of the levy under section 27 of the Act for fuel used for a purpose or use described in subsection (1), (1.1) or (2) shall
 - (a) be made in the form approved by the Commissioner;
 - (b) be accompanied with invoices and any other records and documents required by the Commissioner
 - (i) to prove the claim, and
 - (ii) to determine the amount of the refund; and
 - (c) be received by the Commissioner not later than 4 years after the date on which the fuel was purchased.

Information required

- (4) An applicant for a refund shall provide the following information:
 - (a) the applicant's name and the names of the applicant's business partners or corporation, if applicable;

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- (b) the nature of the applicant's business;
- (c) the location, mailing address and other contact information of the business;
- (d) the levy exemption permit number, if applicable;
- (e) the period of the claim;
- (f) a list of all invoices in respect of the claim, providing the date, name of vendor, invoice number and number of litres of fuel purchased for each invoice;
- (g) a list of all vehicles and equipment that were refueled from the purchases listed;
- (h) the total number of litres of fuel purchased;
- (i) the total number of litres of fuel on which the refund is requested;
- (j) the reason why the applicant is requesting the refund.

Certification

(5) The applicant shall sign and date the application and certify that the information provided is correct.

Review by Commissioner

(6) On receipt of an application under subsection (4), the Commissioner shall review the application and may request additional information to determine the applicant's eligibility.

Payment of refund

(7) Where the Commissioner determines that the applicant is entitled to a refund, the Commissioner shall pay the refund in the amount determined.

Amount of refund

(8) The amount of a refund the Commissioner may pay under subsection (7) is equal to the amount of the levy paid by the claimant on the amount of fuel eligible for the refund. (EC57/2019; 456/20)

Refunds to Vendor

22. Request for refund

- (1) Subject to this section, an application for a refund of the levy under section 40 of the Act shall
 - (a) be a written request from the vendor to the Commissioner;
 - (b) be accompanied with invoices and any other information required by the Commissioner
 - (i) to prove the claim, and
 - (ii) to determine the amount of the levy to be refunded; and
 - (c) subject to subsection (2), be received by the Commissioner not later than 4 years after the date in which the circumstance giving rise to the claim for the refund has occurred.

Application - stolen or destroyed fuel

(2) An application for a refund of the levy under subclause 40(1)(b)(iii) of the Act shall be received by the Commissioner within one year after the date the fuel was stolen or destroyed.

Review by Commissioner

On receipt of an application under this section, the Commissioner shall review the application and may request additional information to determine the applicant's eligibility.

Payment of refund

(4) Where the Commissioner determines that the applicant is entitled to a refund, the Commissioner shall pay the refund in the amount determined by the Commissioner under subsection (5).

Amount of refund

(5) Subject to subsection (6), the amount of refund the Commissioner may pay under subsection (4) is equal to the amount of the levy paid under the Act by the applicant on the amount of fuel eligible for a refund.

Amount of refund - rebranded fuel

(6) The amount of refund the Commissioner may pay under subsection (4) in respect of fuel that was rebranded to a fuel with a lower levy rate or to a substance that is not a fuel is the difference between the levy paid on the fuel before it was rebranded and the levy, if any, payable on the fuel or substance after it was rebranded. (EC57/2019)

PART 5 - REGISTRATION

23. Application for registration

(1) A person to whom subsection 41(1) or 41(2) of the Act applies shall apply to be registered in the form approved by the Commissioner.

Information required

- (2) An applicant for registration shall provide the following information:
 - (a) the applicant's name and the names of any business partners or corporation, if applicable;
 - (b) the name of the business, if different from the information provided under clause (a);
 - (c) the type of ownership of the business;
 - (d) the physical location, mailing address and other contact information for the business;
 - (e) the location where the business records are kept;
 - (f) the Federal Business Number or Harmonized Sales Tax Number of the business;
 - (g) the number of any business license or permit issued for the business;
 - (h) the nature of the business operations or activities;
 - (i) types, categories and estimates of the annual volume of fuel activity.

Certification

(3) The applicant shall sign and date the application and certify that the information provided is correct.

Review by Commissioner

(4) On receipt of an application under this section, the Commissioner shall review the application and may request additional information to determine the applicant's eligibility.

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Security

On review of an application under this section, the Commissioner may request that the applicant provide security in accordance with section 56 of the Act.

Registration

- (6) Where the Commissioner is satisfied with the application, the Commissioner shall
 - (a) register the person as an agent; and
 - (b) issue a registration certificate containing a registration number and identifying the type of fuel that may be sold by the person.

Terms and conditions

(7) The registration of an agent under this section is subject to any terms and conditions that may be imposed, from time to time, by the Commissioner.

Suspension, cancellation

(8) The Commissioner may suspend or cancel a registration where the Commissioner determines that information provided to the Commissioner by the agent is false or misleading. (EC57/2019)

24. Duty of agent to notify Commissioner

An agent shall immediately notify the Commissioner where

- (a) the agent ceases to carry on business or to carry on that part of the agent's business for which the agent was registered;
- (b) the agent is the subject of proceedings relating to bankruptcy, insolvency or receivership;
- (c) the agent, where the agent is a corporation,
 - (i) amalgamates with another corporation,
 - (ii) is wound up, liquidated or dissolved, or
 - (iii) is the subject of any proceedings under the *Companies' Creditors* Arrangement Act (Canada);
- (d) the agent is a partner in a partnership and there is a change in the partners of the partnership; or
- (e) the agent is the operator of a joint venture and there is a change in the participants in the joint venture. (EC57/2019)

PART 6 - RECORDS, RETURNS AND REPORTS

25. Requirement to keep records

- (1) Every person who is required to keep records under the Act or these regulations shall keep the records for
 - (a) in the case of records relating to a purchase of fuel, 5 years from the date on which the fuel was purchased; and
 - (b) in the case of records relating to a refund, 4 years from the date on which the refund was paid.

Records - marked fuel

- (2) A purchaser who purchases marked fuel shall keep records in the form approved by the Commissioner of the following information:
 - (a) the total amount of marked fuel purchased;
 - (b) the equipment fueled by the marked fuel;
 - (c) the use of the equipment referred to in clause (b);
 - (d) information that substantiates the use of marked fuel in that equipment;
 - (e) the amount of clear fuel purchased in the period.

Records - refund

- (3) A person who receives a refund or other amount from the Commissioner shall keep records in the form approved by the Commissioner of the following information:
 - (a) the original purchase invoices of the fuel purchased;
 - (b) the total amount of fuel purchased;
 - (c) the total amount of fuel on which a refund was requested;
 - (d) the equipment fueled by the fuel;
 - (e) the use of the equipment fueled by the fuel. (EC57/2019)

26. Records by agent

(1) An agent that is a vendor of fuel, a consumer of fuel, an importer or exporter of fuel, an operator of a bulk plant or that is engaged in some or all of those activities shall keep records in the form approved by the Commissioner to support the matters to be reported for the purposes of the Act.

Records of transactions

(2) An agent shall record in writing and shall keep, in the form approved by the Commissioner, a record of every purchase, sale, transfer or delivery of fuel.

Information to be recorded

- (3) The information to be recorded relating to a particular purchase, sale, transfer or delivery of fuel shall include
 - (a) the date of the purchase, sale, transfer or delivery and the type and quantity of fuel;
 - (b) the name and address of the person from whom the fuel was purchased, transferred or delivered;
 - (c) the name and address of the person to whom the fuel was sold, transferred or delivered, and a notation as to whether that person was a purchaser, agent, sub-agent or employee of the agent;
 - (d) the invoice number and the number of the levy exemption permit held by the person to whom the fuel was sold, transferred or delivered, if applicable;
 - (e) a statement that the person to whom the fuel was sold, transferred or delivered has provided a letter from the Commissioner certifying the exemption claimed under sections 17 to 20 of the Act, if applicable;
 - (f) the invoice number and number of the levy exemption permit required for the purposes of section 21 of the Act, if applicable;
 - (g) the invoice number and number of the covered facility certificate required for the purposes of section 22 of the Act, if applicable; and
 - (h) the rate and amount of the levy, if any, applicable to the transaction.

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Direction by Commissioner

(4) The Commissioner may, in writing, direct an agent to provide additional information respecting a particular purchase, sale, transfer or delivery of fuel.

Consolidation monthly

(5) An agent shall consolidate records of all purchases, sales, transfers and deliveries of fuel of every bulk plant or other outlet operated by the agent on a monthly basis and shall include in the consolidation all sales, transfers and deliveries of fuel made from bulk plants or other outlets outside the province to the agent or the agent's purchasers in the province.

Deduction by agent

- (6) In establishing the number of litres on which the agent shall remit the levy, the agent may deduct from the total quantity of fuel sold, transferred or delivered in the month
 - (a) the quantity of fuel sold, transferred or delivered to another person in the province who is an agent;
 - (b) the quantity of fuel sold, transferred or delivered to a person outside the province if the sale, transfer or delivery is evidenced by the agent's invoice stating the name and address of the person, the invoice number and a description of the fuel and method of transportation used; and
 - (c) the quantity of fuel on which the levy is not payable under the Act. (EC57/2019)

27. Records by sub-agent

(1) A vendor of fuel that is a sub-agent shall keep records as specified in subsection (2) to support all matters to be reported for the purposes of the Act.

Contents of records

- (2) A vendor that is a sub-agent shall keep and maintain records relating to
 - (a) all acquisitions of fuel, whether the fuel is acquired for the sub-agent's own use or for resale, and the invoices evidencing those acquisitions;
 - (b) total daily sales, transfers or deliveries of each type and grade of fuel, evidenced by pump meter readings;
 - (c) the inventory of each type and grade of fuel in the sub-agent's possession at the opening of business on the first day of each month, and at the close of business on the last day of each month;
 - (d) each sale, transfer or delivery of marked fuel; and
 - (e) each sale, transfer or delivery of exempt fuel.

Direction by Commissioner

(3) The Commissioner may, in writing, direct a vendor to provide additional information respecting the vendor's records.

Form of records

(4) The records required to be kept and maintained under this section shall be in the form approved by the Commissioner. (EC57/2019)

28. Records by other persons

Where required by the Commissioner under section 36 of the Act to do so, a person shall keep and maintain for each calendar quarter a record of

- all fuel acquired by the person outside of and brought into the province; (a)
- (b) all fuel acquired by the person within the province; and
- the use made of the fuel referred to in clauses (a) and (b). (EC57/2019) (c)

Place of records 29.

(1) A person required to keep records under these regulations shall keep the records at the person's place of business or residence in the province or at any other place approved by the Commissioner.

Electronic records

(2) Where records are created electronically, the person required to keep the records shall ensure that the person maintains a system that enables the records to be read and printed. (EC57/2019)

30. Invoice - sale subject to levy

- (1) A vendor shall, in respect of each sale of clear fuel subject to the levy, prepare an invoice showing
 - (a) the name and address of the vendor;
 - the date of sale; (b)
 - the amount of each type of fuel sold; and (c)
 - the rate and amount of the levy applicable to the transaction. (d)

Invoice - sale not subject to levy

- (2) A vendor shall, in respect of each sale of fuel not subject to the levy, prepare an invoice showing the following:
 - the name and address of the vendor; (a)
 - (b) the name and address of the purchaser;
 - the number of the purchaser's levy exemption permit, if applicable; (c)
 - (d) the date of sale;
 - the amount of each type of fuel sold; (e)
 - (f) the total selling price.

Retention of copy

(3) A vendor shall retain one copy of an invoice or other documentation prepared under this section and provide the original to the person to whom the fuel is sold. (EC57/2019)

31. Returns by agents - reporting period

(1) The reporting period for a return by an agent is a calendar month.

Different reporting period

(2) The Commissioner may, in respect of particular operations or activities of an agent, approve a different reporting period from the period specified in subsection (1).

Time for return by agent

An agent shall submit a return in respect of a reporting period so that it is received by the (3) Minister not later than 25 days following the end of that reporting period.

Written direction

(4) The Commissioner may require an agent to remit a return earlier than the dated specified under this section by providing a direction in writing to that effect to the agent. (EC57/2019)

32. Content of return by agent

- (1) An agent shall include the following information in the return the agent is required to submit under section 31:
 - (a) all inventory stored in the province at the beginning of the reporting period;
 - (b) all products refined or manufactured in the province during the reporting period;
 - (c) all products imported into the province during the reporting period;
 - (d) all products purchased or obtained from agents within the province during the reporting period;
 - (e) all products that were rebranded during the reporting period;
 - (f) all inventory stored in the province at the end of the reporting period;
 - (g) the total accountable volume for each product for the reporting period;
 - (h) all products exported from the province during the reporting period;
 - (i) all products sold or transferred to agents within the province during the reporting period;
 - (j) all products sold exempt of the levy during the reporting period;
 - (k) all verifiable volume adjustments made during the reporting period;
 - (1) a total of all volumes for each product subject to the levy for the reporting period;
 - (m) a total of the total levy due for each product for the reporting period;
 - (n) all approved adjustments for each product for the reporting period;
 - (o) the total levy payable for the reporting period.

Certification

(2) The agent shall sign and date the return and certify that the information provided is correct.

Direction by Commissioner

(3) The Commissioner may in writing direct an agent to provide additional information respecting the agent's activities in the reporting period. (EC57/2019)

33. Report by consumer

(1) A consumer required to file a return under section 37 of the Act shall submit to the Commissioner a report in the form approved by the Commissioner not later than 30 days following the end of the period specified by the Commissioner.

Information required

- (2) The consumer shall provide the following information in the report referred to in subsection (1):
 - (a) the consumer's name and the names of business partners or the corporation, if applicable;
 - (b) the consumer's mailing address and other contact information;
 - (c) the number of the consumer's levy exemption permit, if applicable;
 - (d) the type of fuel used;

- (e) the month during which the fuel was used;
- (f) the levy rate for the type of fuel;
- (g) the total amount of fuel used;
- (h) the amount of the levy payable on the fuel used;
- (i) the total levy due;
- (j) the amount of payment being remitted.

Certification

(3) The consumer shall sign and date the return and certify that the information provided is correct.

Direction by Commissioner

(4) The Commissioner may in writing direct a consumer to provide additional information respecting the consumer's use of fuel. (EC57/19)

33.1 Report - marked fuel

(1) A purchaser who is required pursuant to subsection 29(2) of the Act to report purchases of marked fuel used in a farm truck for a use other than agricultural operations shall submit the report in the form approved by the Commissioner by March 31 of each year for the previous calendar year.

Confirmation

(2) A purchaser who has purchased fuel exempt from the levy and is not required to report under subsection (1) shall report on a form approved by the Commissioner on or before March 31 of each year for the previous calendar year confirming that no levy is owed. (*EC456/20*)

34. Report by vendor

(1) A person required to file a return pursuant to subsection 11(3) or 60(4) of the Act shall submit to the Commissioner a report in the form approved by the Commissioner not later than 30 days following the day on which the levy rate applicable to the type of fuel changed.

Information required

- (2) A person referred to in subsection (1) shall provide the following information in the report:
 - (a) the person's name and the names of business partners or corporation, if applicable;
 - (b) the person's mailing address and other contact information;
 - (c) the type of fuel inventory on hand;
 - (d) the change in the levy rate for each type of fuel inventory on hand;
 - (e) the amount of each type of fuel inventory on hand;
 - (f) the levy payable or refundable on each type of fuel inventory on hand;
 - (g) the total levy payable or refundable;
 - (h) the amount payment being remitted, if applicable.

Certification

(3) The person referred to in subsection (1) shall sign and date the report and certify that the information provided is correct.

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Direction by Commissioner

(4) The Commissioner may in writing direct a person referred to in subsection (1) to provide additional information for the purposes of the report. (EC57/2019)

PART 7 - GENERAL MATTERS

35. Interest

- (1) Subject to this section, interest that is payable under the Act is
 - (a) compound interest at the rate prescribed for the purposes of section 16 of the *Revenue Administration Act* R.S.P.E.I. 1988, Cap. R-13.2; and
 - (b) payable under the Act from the day on which an amount is owed until the day on which the amount is received by the Minister.

Interest on penalty

(2) Interest is payable on the amount of a penalty unpaid under section 53 of the Act at the rate prescribed for the purposes of section 16 of the *Revenue Administration Act* from the date of the notice of administrative penalty until the day on which the Minister receives the amount owing.

Exemption

(3) Pursuant to subsection 19(6) of the *Revenue Administration Act*, no interest is payable on any amount payable by the Commissioner under the Act or these regulations. (EC57/2019)

36. Service by Commissioner

- (1) Except where the Act or these regulations provide otherwise, where a notice or other document is to be served on or is to be sent or given to a person by the Commissioner, the notice or document may be served on, sent or given to
 - (a) a person, other than a corporation,
 - (i) by being mailed to the person by ordinary or registered mail addressed to the person to which the notice or document is directed at that person's last address known to the Commissioner,
 - (ii) by personal service, or
 - (iii) subject to subsection 57(1) of the Act, by electronic means; and
 - (b) a corporation,
 - (i) by registered mail addressed to the corporation at the corporation's last address known to the Commissioner, or
 - (ii) subject to subsection 57(1) of the Act, by electronic means.

Other business name

- (2) Where a person on or to whom a notice or other document is to be served, sent or given under the Act or these regulations carries on business under a name or style other than the person's own name, the notice or document,
 - (a) for the purposes of being mailed or sent by electronic means, may be addressed to the name or style under which the person carries on business; and

(b) for the purposes of personal services, is deemed to have been served where it has been left with an adult person employed at the place of business of the person to which the notice or document is directed.

Partnership, joint venture

- (3) Where persons on or to whom a notice or other document is to be served, sent or given under the Act or these Regulations carry on business in partnership or joint venture, the notice or document,
 - (a) for the purposes of being mailed or sent by electronic means, may be addressed to the partnership name or joint venture name; and
 - (b) for the purposes of personal service, is deemed to have been served where it
 - (i) has been served on one of the partners, or
 - (ii) is left with an adult person employed at the place of business of the partnership or joint venture. (EC57/2019)

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