
Explanatory Notes Relating to the Draft Regulations Amending Various Regulations Relating to Part 1 of the Greenhouse Gas Pollution Pricing Act

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Preface

These explanatory notes describe the proposed *Draft Regulations Amending Various Regulations Relating to Part 1 of the Greenhouse Gas Pollution Pricing Act*. These explanatory notes describe these proposals, clause by clause, for the assistance of Members of Parliament, stakeholders and their professional advisors.

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These notes are intended for informational purposes only and should not be construed as an official interpretation of the provisions they describe.

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Fuel Charge Regulations

Clause 1

Adjustment day

Fuel Charge Regulations

3.1

The definition “adjustment day” in section 3 of the *Greenhouse Gas Pollution Pricing Act* (the Act) includes a day that is prescribed by regulations or that meets conditions prescribed by regulations. If a person holds fuel in a listed province at the beginning of a day that is an adjustment day, that person may have obligations under section 38 of the Act, including an obligation to pay a charge in respect of the fuel held at the beginning of that day.

Existing Section 3.1 of the *Fuel Charge Regulations* (the Regulations) prescribes a number of days as adjustment days.

Section 3.1 of the Regulations is amended by adding, in new paragraph (a.1), January 1, 2020 as an adjustment day prescribed by regulations for the purposes of the definition “adjustment day” in section 3 of the Act and is relevant to the commencement of the application of the fuel charge in Alberta on that day.

New paragraph (a.1) has the same effect as the provision found in existing section 1 of the *Part 1 of the Greenhouse Gas Pollution Pricing Act Regulations (Alberta)* as made by SOR/2019-294. These amendments will have the effect of consolidating the rules contained in that regulation with the rules contained in the *Fuel Charge Regulations*. Section 1 of the *Part 1 of the Greenhouse Gas Pollution Pricing Act Regulations (Alberta)* is accordingly repealed (see commentary below for these regulations).

This amendment comes into force on January 1, 2020.

Clause 2

January 1, 2020 – Alberta

Fuel Charge Regulations

3.3

New section 3.3 of the Regulations adapts section 38(1) of the Act for the purposes of the fuel charge system and of applying subsection 38(1) of the Act in respect of the adjustment day that is January 1, 2020, except if sections 10 or 16 of the Regulations apply (which contain special rules applicable to greenhouse operators and remote power plant operators). As a result of this adaptation, the amount under element B of the formula in subsection 38(1) of the Act is zero if the listed province is Alberta.

New section 3.3 has the same effect as the provision found in existing section 2 of the *Part 1 of the Greenhouse Gas Pollution Pricing Act Regulations (Alberta)* as made by SOR/2019-294. These amendments will have the effect of consolidating the rules contained in that regulation with the rules contained in the *Fuel Charge Regulations*. Section 2 of the *Part 1 of the Greenhouse Gas Pollution Pricing Act Regulations (Alberta)* is accordingly repealed (see commentary below for these regulations).

New section 3.3 comes into force on January 1, 2020.

Clause 3

Prescribed listed provinces - fishers

Fuel Charge Regulations

6

Subsection 17(1) of the Act generally imposes a charge on a person that is a registered distributor in respect of a type of fuel in relation to fuel of that type that the person delivers to another person in a listed province. Subsection 17(2) of the Act describes circumstances under which a charge under subsection (1) is not payable. Under subsection (2), no charge applies if the fuel is delivered to another person that is a fisher, the fuel is a qualifying fishing fuel (i.e. gasoline and light fuel oil), an exemption certificate applies in respect of the delivery and the fuel is delivered in a listed province that is prescribed by regulation.

Existing section 6 of the Regulations prescribes the listed provinces for purposes of the application of the exemption for fishers under subsection 17(2) of the Act, namely Ontario, New Brunswick, Manitoba, Saskatchewan, Yukon and Nunavut.

Section 6 of the Regulations is amended by adding, in new paragraph (d.1), Alberta as a listed province prescribed by regulations for the purposes of the application of the exemption for fishers under subsection 17(2) of the Act.

This amendment comes into force on January 1, 2020.

Clause 4

Amount of charge – adjustment day

Fuel Charge Regulations

10

Section 38 of the Act imposes a charge on a person in respect of a quantity of fuel that the person holds in a listed province at the beginning of an adjustment day, if certain conditions are met. The amount of the charge is determined by the formula set out in subsection 38(1) of the Act. Section 10 of the Regulations adapts that formula for the purpose of the fuel charge system and of applying subsection 38(1) in respect of a fuel that is a qualifying greenhouse fuel and that is

held at the beginning of an adjustment day in a listed province by a person that is a greenhouse operator to reflect the partial relief in certain circumstances of the fuel charge applicable to greenhouse operators. If these conditions are met, then subsection 38(1) of the Act is adapted to state that the person must pay to Her Majesty in right of Canada a charge in respect of the quantity of fuel and the listed province in the amount determined by the following formula:

$$[A - (0.8 \times B)] \times (C - D)$$

In this formula, element A is the quantity of the fuel that is held at the beginning of the adjustment day in the listed province by the person. Element B is the quantity of that fuel that was delivered to the person by a registered distributor in respect of that type of fuel and in respect of which an exemption certificate referred to in subsection 9(1) of the Regulations applies in respect of the delivery in accordance with section 36 of the Act. Element C is the rate in respect of fuel of that type for the listed province applicable on the adjustment day. Existing element D is the rate in respect of fuel of that type for the listed province applicable on the day before the adjustment day, unless certain conditions are met.

Element D of section 10 of the Regulations is amended by adding subparagraph (a)(iii) to provide that element D is equal to zero if the adjustment day is January 1, 2020 and the listed province is Alberta.

Amended section 10 comes into force on January 1, 2020.

Clause 5

Amount of charge – adjustment day

Fuel Charge Regulations

16

Section 38 of the Act imposes a charge on a person in respect of a quantity of fuel that the person holds in a listed province at the beginning of an adjustment day, if certain conditions are met. The amount of the charge is determined by the formula set out in subsection 38(1) of the Act. Section 16 of the Regulations adapts that formula for the purposes of the fuel charge system and of applying subsection 38(1) in respect of fuel that is a qualifying power plant fuel and that is held at the beginning of an adjustment day in a listed province by a person that is a remote power plant operator to reflect the relief in certain circumstances of the fuel charge applicable to remote power plant operators.

Section 16 applies in respect of fuel that is a qualifying power plant fuel and that is held at the beginning of an adjustment day in a listed province by a person that is a remote power plant operator. If these conditions are met, then subsection 38(1) of the Act is adapted to state that the person must pay to Her Majesty in right of Canada a charge in respect of the quantity of fuel and the listed province in the amount determined by the following formula:

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

In this formula, element A is the quantity of the fuel that is held at the beginning of the adjustment day in the listed province by the person. Element B is the quantity of that fuel that was delivered to the person by a registered distributor in respect of that type of fuel and in respect of which an exemption certificate applies in respect of the delivery in accordance with section 36 of the Act. If all of the fuel held at the beginning of an adjustment day meets the conditions of element B, then no charge is payable. Element C is the rate in respect of fuel of that type for the listed province applicable on the adjustment day. Existing element D is the rate in respect of fuel of that type for the listed province applicable on the day before the adjustment day, unless certain conditions are met.

Element D of section 16 of the Regulations is amended by adding subparagraph (a)(iii) to provide that element D is equal to zero if the adjustment day is January 1, 2020 and the listed province is Alberta.

This amendment comes into force on January 1, 2020.

Clause 6

Prescribed covered facility

Fuel Charge Regulations

24

The term “covered facility” means, under the paragraph (b) of the definition of the term in Section 3 of the Act, a facility or property that is a facility or property that is prescribed by regulations, a facility or property that is part of a class of facilities or properties prescribed by regulations or a facility or property that meets conditions prescribed by regulations. Section 24 of the Regulations sets out circumstances under which a facility would be a covered facility for purposes of paragraph (b) of the definition “covered facility” in section 3 of the Act.

Existing section 24 provides that one or more sites including structures and equipment situated at those sites (referred to in Part 9 of the Regulations as a “facility”) is a facility prescribed by regulations if certain conditions are met. The condition in existing paragraph (a) requires that the facility is located in Saskatchewan.

Paragraph 24(a) of the Regulations is amended to provide that this condition is satisfied if the facility is located entirely in Saskatchewan or entirely in Alberta. As a result, facilities that are located in Alberta and that are subject to the provincial pricing output-based pricing system will be considered a covered facility for purposes of Part 1 of the Act, if all other conditions of the Act and Regulations are met.

This amendment comes into force on Announcement Date.

Part 1 of the Greenhouse Gas Pollution Pricing Act Regulations (Alberta)

Clause 7

Prescribed day and adaptation

Part 1 of the Greenhouse Gas Pollution Pricing Act Regulations (Alberta)

1 and 2

Existing section 1 of the *Part 1 of the Greenhouse Gas Pollution Pricing Act Regulations (Alberta)* prescribes January 1, 2020 as an adjustment day for the purposes of the definition of “adjustment day” found in section 3 of the Act, which includes a day that is prescribed by regulations or that meets conditions prescribed by regulations.

If a person holds fuel in a listed province at the beginning of a day that is an adjustment day, that person may have obligations under section 38 of the Act, including an obligation to pay a charge in respect of the fuel held at the beginning of that day.

Existing section 2 adapts section 38(1) of the Act for the purposes of the fuel charge system and of applying subsection 38(1) of the Act in respect of the adjustment day that is January 1, 2020, except if sections 10 or 16 of the *Fuel Charge Regulations* apply (which contain special rules applicable to green house operators and remote power plant operators).

Sections 1 and 2 of the *Part 1 of the Greenhouse Gas Pollution Pricing Act Regulations (Alberta)* are repealed as those rules are now found in sections 3.1 and 3.2 of the *Fuel Charge Regulations* (see commentary above for these regulations).

This measure comes into force on January 1, 2020.