Environment Canada Environnement Canada

# Questions & Answers

## on the Federal *Renewable Fuels Regulations*

**Oil, Gas & Alternative Energy Division**
**Environment Canada**

**Last revised: February 16, 2012**

**Please note that all changes from the September 3, 2010 version are underlined in the text**

Canada

# Questions & Answers

## on the Federal *Renewable Fuels Regulations*

### PREFACE

The objective of this document is to provide the reader with an understanding of the requirements of the *Renewable Fuels Regulations*, including those requirements brought into force through any subsequent amendments. The document is in the format of questions and answers. Additional questions are welcome and may be reproduced in subsequent versions of this document.

Questions on the federal *Renewable Fuels Regulations* may be sent by email or fax to:


Questions on the *Renewable Fuels Regulations*
c/o Chief, Fuels Section
Oil, Gas & Alternative Energy Division
Environment Canada
Email: fuels-carburants@ec.gc.ca
Fax: 819-953-8903


### DISCLAIMER

This document does not in any way supersede or modify the *Renewable Fuels Regulations*, or offer any legal interpretation of those Regulations. Where there are any inconsistencies between this document and the Regulations, the *Renewable Fuel Regulations* take precedent.

## TABLE OF CONTENTS

This document is organized by the sections of the Regulations. A summary of its contents is listed below, by header letter and its associated section, or sections, of the Regulations:

    - AA: Section 36 – Records and reports for sellers of fuel for export
    - BB: Sections 37 & 38 – Record-making and retention of information
    - CC: Section 39 – Interim reports
    - DD: Section 40 – Coming into force

- EE: Reporting deadlines and other reporting issues

## GENERAL QUESTIONS

*A.1: Who is affected by the* Renewable Fuels Regulations*?*

Persons who are affected by the Regulations are:

- Persons who produce and/or import gasoline, diesel fuel or heating distillate oil;
- Persons who produce and/or import renewable fuel;
- Persons who elect under section 11 of the Regulations to create compliance units as participants in the trading system; and
- Persons who sell for export renewable fuel or liquid petroleum fuel that contains renewable fuel.

The Regulations place various requirements on these persons, depending on the nature of their activity. The details of these requirements are described in this document. Refer to question DD.9 for a summary of specific sections of the Regulations that apply to persons carrying out different activities.

*A.2: Why is the Government requiring renewable content in fuels?*

The Government of Canada is committed to expanding the production and use of renewable fuels such as ethanol and biodiesel. The Government has a four-pronged strategy for renewable fuels in order to:

- Reduce the emissions of greenhouse gases resulting from fuel use;
- Encourage greater production of biofuels;
- Accelerate the commercialization of new biofuel technologies; and
- Provide new market opportunities for agricultural producers and rural communities.

The government's comprehensive strategy for renewable fuels has four components:

1. Increasing the retail availability of renewable fuels through regulation (that is, the federal *Renewable Fuels Regulations*);
2. Supporting the expansion of Canadian production of renewable fuels;
3. Assisting farmers to seize new opportunities in this sector; and
4. Accelerating the commercialization of new technologies.

The Government announced the first component of the strategy, increasing the retail availability of renewable fuels through regulation in December 2006 and Environment Canada issued a *Notice of intent to develop a federal regulation requiring renewable fuels* in the *Canada Gazette* later that month (http://gazette.gc.ca/archives/p1/2006/2006-12-30/html/notice-avis-eng.html).

*A.3: Where can I get information on the Government of Canada's strategy for renewable fuels?*

The strategy is described on the following Government of Canada website: http://www.ecoaction.gc.ca/ecoenergy-ecoenergie/biofuelsincentive-incitatifsbiocarburants-eng.cfm

*A.4: How do these Regulations relate to other federal fuel regulations?*

There are a number of other federal fuel regulations: namely,

- *Fuels Information Regulations, No. 1*,
- *Gasoline Regulations [Lead and Phosphorous]*,
- *Benzene in Gasoline Regulations*,
- *Sulphur in Gasoline Regulations*,
- *Sulphur in Diesel Fuel Regulations*,
- *Contaminated Fuels Regulations*,
- *Regulations Prescribing Circumstances for Granting Waivers Pursuant to Section 147 of the Act ,* and
- *Gasoline and Gasoline Blend Dispensing Flow Rate Regulations*.

Some of the regulations apply to producers and importers of gasoline, some apply to producers and importers of diesel fuel, and others apply to persons engaged in other activities. Each of the regulations has specific requirements, such as compositional, recordkeeping and reporting requirements. All of the regulations must be complied with. For information on these regulations, please refer to: http://www.ec.gc.ca/energie-energy/default.asp?lang=En&n=EE068DA8-1

*A.5: How do these Regulations relate to provincial renewable fuel regulations?*

The federal Regulations are made under the authorities of the *Canadian Environmental Protection Act, 1999*. The overall structure is similar to the *Renewable Fuel Standard* in the United States, with the point of compliance being the point of production or importation (whereas the provincial regulations are generally based on the point of "first" sale). Both the Canadian and U.S. regulatory regimes are based on company-wide compliance, as are the provincial regulations.

Because of the differing points of compliance, the use of tradeable compliance units, differing policies and scope, and differing legal authorities, there will be differences in requirements between the federal and provincial regulations. In addition, the enforcement aspects of the federal and provincial regulations differ in the fines and penalties that can be imposed for non-compliance.

*A.6: If I fully comply with a provincial regulation that has the same or higher renewable fuel requirement, am I automatically in compliance with the federal Regulations?*

No. Each regulatory regime has its own set of requirements. Even if the requirements for renewable fuel content are the same or similar between regimes, there are different pools of fuel required to have renewable content, and different recordkeeping, reporting and auditing requirements. Both the federal and provincial regulations must be complied with. Compliance with one does not necessarily mean compliance with the other.

*A.7: Can there be an equivalency agreement between the federal government and one or more provincial governments in regards to the* Renewable Fuels Regulations*?*

Under equivalency agreements, federal and provincial governments agree that a federal regulation does not apply within a province where there is an equivalent provincial regulation. Equivalency agreements are authorized under section 10 of the *Canadian Environmental Protection Act, 1999.* However, section 10 of the Act does not cover regulations made under section 140 of the Act, which is the provision under which most federal fuel regulations are made, including the *Renewable Fuels Regulations*. Consequently, there cannot be equivalency agreements for the *Renewable Fuels Regulations*.

*A.8: Why are the Regulations so complicated?*

The Regulations deal with three petroleum fuels (gasoline, diesel fuel and heating distillate oil) that are generally produced at one facility and to which renewable fuel is added at another facility, which is often at an entirely separate location from the first facility. The Regulations must bridge the gap between the point of production of the petroleum fuels and the point of blending of the renewable fuels into the petroleum fuels.

In addition, the Regulations include a number of flexibilities provided to the regulatee, including annual averaging, a trading system for compliance units, carry forward and carry back of compliance units, creation of compliance units for having renewable fuel content in fuels other than gasoline, creation of compliance units from the use of biocrude, etc. These flexibilities were incorporated to reduce the cost of compliance for regulatees by not requiring to have renewable fuel in each batch of petroleum fuel, while ensuring the benefits of renewable fuels.

The inclusion of these flexibilities requires full recordkeeping, reporting, auditing and other administrative requirements. These are necessary to ensure the robustness and enforceability of the Regulations.

The overall structure of the Regulations has design elements that allow the Regulations to be significantly simpler than similar regulations in the United States.

*A.9: Why are the federal Regulations not sales-based, as are the provincial renewable fuel regulations?*

The federal Regulations are made under the *Canadian Environmental Protection Act, 1999*, which sets out authorities to regulate fuels. Working within these authorities, and also considering interactions and transactions within the petroleum industry across all of Canada and the multiple refinery orbits covered in a national regulation, the sales approach was not considered to be viable for the federal Regulations.

*A.10: I only produce or import gasoline-like blendstock, not gasoline. Do the Regulations apply to me?*

The definition of “gasoline” in the Regulations includes sub-octane blending components. If your blendstock meets the definition of gasoline, you are obligated to meet the renewable fuel requirements of the Regulations for your gasoline pool (section 5 of the Regulations).

*A.11: If I only buy fuel, but do not sell, refine or import myself, what requirements must I meet?*

If that is your only activity, the Regulations do not apply to you.

*A.12: If I only sell fuel, what requirements must I meet?*

If that is your only activity, the Regulations do not apply to you, unless you sell for export renewable fuel or fuel containing renewable content. If you sell fuel for export, there are some recordkeeping and reporting requirements that apply to you (sections 36 to 39 of the Regulations).

*A.13: If I only export fuel, what requirements of the Regulations must I meet?*

You do not have any requirements if you only sell for export petroleum fuel that does not have any renewable content.

Under the Regulations, if you sell renewable fuel or fuel with renewable content for export:

- You must meet the recordkeeping and reporting requirements of section 36.
- A format for your reports may be specified under Section 27.
- Records must be made "*as soon as feasible*" under section 37 (but no later than 15 days after the required information becomes available).
- Your records and supporting documentation must be kept in Canada for five years, pursuant to section 38.
- Your volumes must be measured in accordance with section 4.
- You must submit samples or information, upon request, pursuant to Section 26.

If you sell for export less than 1000 $m^3$ of renewable fuel or of liquid petroleum fuel containing renewable fuel during a gasoline compliance period, these requirements do not apply to you. The threshold is the volume sold for export during calendar year, except between December 15, 2010 and December 31, 2012, when the volume covers exports for that entire period.

*A.14: If I only produce or import renewable fuel, what requirements must I meet?*

You must meet the recordkeeping and reporting requirements of section 34 of the Regulations. These records and reports are required in order to monitor the effectiveness of the Regulations and for enforcement purposes. In addition:

- A format for your reports may be specified under Section 27.
- Records must be made "*as soon as feasible*" under section 37 (but no later than 15 days after the required information becomes available).
- Your records and supporting documentation must be kept in Canada for five years, pursuant to section 38.
- Volumes must be measured in accordance with section 4 and a report on measurement methods is required, under section 35.

If you only produce and/or import less than 400 $m^3$ of renewable fuel in a year, for that compliance period (that is, in any 12-month period of the compliance period), these requirements do not apply to you (refer to subsection 2(2) of the Regulations).

*A.15: If I only blend renewable fuel, what requirements must I meet?*

You do not have to meet any requirements unless you opt to become an elective participant in the trading system. In that case, you must meet all the requirements of the Regulations for such a person (refer to Parts 2 and 3 of the Regulations).

*NEW A.15.1: If I sell a renewable fuel in Canada, must it be added into a liquid petroleum fuel in Canada?*

No, it need not. However, to create compliance units, it must be added to a liquid petroleum fuel or used in its neat form.

*A.16: Why don't the Regulations target the blenders of gasoline, diesel fuel and heating distillate oil, instead of targeting the producers and importers of petroleum fuels?*

The intent of the Regulations is to reduce emissions of greenhouse gases through the replacement of a portion of liquid petroleum fuels with renewable fuels. Thus, the producers and importers of the liquid petroleum fuels must have an annual minimum renewable fuel content.

*A.17: What fuels are required to have renewable content?*

Producers and importers of gasoline, diesel fuel or heating distillate oil must meet the minimum renewable content requirements in those fuels over each compliance period, which is usually a calendar year. Renewable fuels blended into petroleum fuels other than those listed, as well as the use of biocrude, may also qualify towards meeting the renewable fuel requirement for gasoline.

*REVISED A.18: Are there fuels that are not subject to the Regulations?*

These Regulations apply to gasoline, diesel fuel and heating distillate oil; other petroleum fuels are not covered. However, if a person wishes to create compliance units from the addition of renewable fuel to these other petroleum fuels, they may, provided that they meet all the applicable requirements of the Regulations.

In addition, certain special-use fuels may be excluded from a person's volumetric pool of fuel that they produced and imported. These are fuels for use:

- in aircraft,
- in competition vehicles,
- in scientific research,
- as feedstock in the production of chemicals (other than fuels) in a chemical manufacturing facility,
- in the North (Yukon, the Northwest Territories, Nunavut, Quebec north of 60°N),
- in Newfoundland and Labrador, and
- in the case of diesel fuel and heating distillate oil,

- in military combat equipment,
- represented as kerosene and sold for or delivered for use in unvented space heaters, wick-fed illuminating lamps, or flue-connected stoves and heaters.

In addition, a primary supplier may subtract from its distillate pool any diesel fuel or heating distillate oil that was, until December 31, 2012, for use in Nova Scotia, New Brunswick, Prince Edward Island and Quebec on or south of 60°N.

Fuel for export, or fuel in transit through Canada from a place outside Canada to another place outside Canada, may also be excluded from a person's pool. You should also refer to question G.26.1.

*NEW A.18.1: What are unvented space heaters, wick-fed illuminating lamps and flue-connected stoves and heaters? Can you give examples of them? Where did these terms come from?*

These terms are common industry terminology and are used in industry standards, such as the Canadian General Standard Board's standard for kerosene (CAN/CGSB-3.3-2007, section 1.2). A description of these types of combustion devices follows:

- Unvented space heaters: Small heaters typically used to heat small parts of buildings. Unvented space heaters are typically portable and use the surrounding air for combustion, venting their combustion by-products back into the room.
- Wick-fed illuminating lamps: A lamp that uses a flame for illumination, fed by a wick. A wick is typically a piece of fibre, string, cord or wood that conveys fuel to a flame. A wick fed illuminating lamp provides light, through the burning of a flame with the fuel supplied via a wick saturated in a combustible liquid. An example would be a hurricane or kerosene lamp.
- Flue-connected stoves and heaters: Flue connected stoves and heaters are those stoves and heaters that have a duct, pipe or chimney that convey the combustion exhaust gases to the outdoors.

*A.19: My only activity is importing one of the special-use fuels listed in the response to question A.18. Do the Regulations apply to me?*

You are exempt from the provisions of the Regulations, except for some recordkeeping requirements. Refer to subsection 2(3) of the Regulations. However, if you wish to create compliance units and participate in the trading system, you may opt into the trading system by sending a notice to

the Minister, as set out in section 3 of the Regulations. In that case, you must meet all the requirements of the Regulations that apply to primary suppliers.

*A.20: The Regulations do not include requirements that renewable fuels used have lower greenhouse gas emissions than conventional fuels. Why not?*

The impact of a renewable fuel on emissions of greenhouse gases vary depending on the feedstock used to produce the fuel, what processes are used to produce the fuel, and where it is produced in relation to where it is used. There is considerable controversy as to methodologies for estimating lifecycle emissions of various renewable fuels. The Government has decided that for the present the Regulations will not have any such explicit requirements; however, in the future, when there is more information available, such requirements may be introduced into the Regulations.

With the expected mix of renewable fuels in Canada, it is estimated that there will be a net reduction in greenhouse gas emissions from the use of renewable fuel. The Regulatory Impact Analysis Statement associated with the Regulations provides an estimate of the expected reduction.

*A.21: The Regulations do not differentiate between conventionally produced renewable fuels and next generation renewable fuels, such as cellulosic ethanol. Why not?*

There is a lack of robust information as to the appropriate "biases" for these next generation renewable fuels. The Government has decided that for the present the Regulations will not have any such biases; however, in the future, when there is more information available, such biases may be introduced into the Regulations.

*A. 22: Why do the requirements apply on a corporate basis? Won't this mean that renewable fuel blends may not be available in all regions of Canada?*

The Government of Canada consulted widely on federal Regulations for renewable fuels. It announced its intention in the *Canada Gazette* in 2006. Its decision to apply the requirements on a corporate basis reflects those consultations and the Government's subsequent announcement in May 2009, of the key elements and next steps. Refer to: http://www.ec.gc.ca/ceparegistry/documents/participation/renewable_fuels/ppt1.cfm

Compliance on a corporate basis is consistent with the U.S. *Renewable Fuel Standard* and provincial renewable fuel regulations.

Consequently, renewable fuel blends may not be available in all regions of Canada, as the overall national levels could be met through higher levels in other regions.

*A.23: Why are the limits on a corporate basis rather than on a facility basis like under the Benzene in Gasoline Regulations and Sulphur in Gasoline Regulations?*

The *Renewable Fuels Regulations* are concerned with reducing greenhouse gases, a global environmental issue. It is the overall quantity of petroleum fuels displaced by renewable fuels that provides the greenhouse gas benefit, rather than having renewable fuel blended at every facility. The other fuel regulations are concerned with regional air quality issues. Compliance on a corporate basis is consistent with the U.S. *Renewable Fuel Standard* and provincial renewable fuel regulations.

*A.24: Why are the limits on an average basis rather than per-litre limits like under the Sulphur in Diesel Fuel Regulations?*

The *Renewable Fuels Regulations* are concerned with reducing greenhouse gases, a global national issue. It is the overall quantity of petroleum fuels displaced by renewable fuels that provides the greenhouse gas benefit, rather than having renewable fuel blended at every facility. The *Sulphur in Diesel Fuel Regulations* were concerned with ensuring that emissions control equipment on vehicles operated as intended. This necessitated ensuring that every batch of diesel fuel did not exceed the required maximum sulphur content.

*<u>REVISED A.25</u>: What is a compliance period?*

A compliance period is the period over which a primary supplier must meet the 5% renewable fuel requirement for gasoline (the gasoline compliance period), and the 2% renewable fuel requirement for diesel fuel and heating distillate oil (the distillate compliance period).

Except for the first compliance period, a compliance period is equal to a calendar year, both for the gasoline compliance period, and the distillate compliance period. The first gasoline compliance period is a transitional period, 24 ½ months long. <u>The first distillate compliance period is also a transitional period, 18 months long.</u>

*A.26: What are “compliance units”?*

In a general sense, one compliance unit represents one litre of renewable fuel. Compliance units are created by activities such as adding renewable fuel to liquid petroleum fuel, or by using biocrude, and they are tradeable. Compliance units are used to demonstrate compliance with the requirements of the Regulations; sufficient compliance units must be owned by primary suppliers in order to demonstrate that they have the required volume of renewable fuels. For more details, refer to the questions and answers below in Section K on the creation of compliance units.

*A.27: When do I have to meet the requirement of 5% renewable fuel for my gasoline pool?*

The requirement starts on December 15, 2010. The first gasoline compliance period is the period from December 15, 2010 to December 31, 2012 (a 24 ½-month period). You must have an average of 5% renewable fuel in your gasoline pool over this period.

Following the compliance period, there are a further three months for the associated trading period during which compliance units from the first period may be exchanged (e.g., until March 31, 2013 for the first gasoline compliance period).

For example, a primary supplier need not have any compliance units during the first few months of the first gasoline compliance period, but it must then make up for this deficiency, either through creating compliance units or acquiring them from others. If at the end of the first gasoline compliance period (December 31, 2012) the primary supplier still has a shortfall, it has until March 31, 2013 to acquire compliance units through trading with other participants in the trading system.

*<u>REVISED A.28</u>: When do I have to meet the requirement of 2% renewable fuel for my distillate pool?*

<u>The requirement starts on July 1, 2011. The first distillate compliance period is the period from July 1, 2011 to December 31, 2012 (an 18-month period). You must have an average of 2% renewable fuel in your distillate pool over this period.</u>

<u>Following each compliance period, there are a further three months for the associated trading period during which compliance units from the first period may be exchanged (e.g., until March 31, 2013 for the first distillate compliance period).</u>

For example, a primary supplier does not need to have any compliance units during the first few months of the first distillate compliance period, but it must then make up for this deficiency, either through creating compliance units or acquiring them from others. If at the end of the first distillate compliance period (December 31, 2012) the primary supplier still has a shortfall, it has until March 31, 2013 to acquire compliance units through trading with other participants in the trading system. It can also carry back compliance units from the next compliance period as stated in sections 24 and 25 of the Regulations (see also questions P.1 to P.9 related to carry back provisions).

*REVISED A.29: Repealed.*

*REVISED A.30: Repealed.*

*A.31: What are the important dates in the Regulations?*

Besides the dates for the renewable fuel requirements described in questions A.27 and A.28, there are various dates for reporting requirements. These are detailed in question EE.6.

*A.32: Do the Regulations require the use of ethanol or biodiesel?*

The Regulations do not require any specific renewable fuel to be used. Instead, any liquid renewable fuel may qualify for the creation of compliance units, provided it is produced from one or more of the listed renewable fuel feedstocks, complies with the maximum content of non-renewable substances allowed, and otherwise meets the definition of renewable fuel as set out in the Regulations.

The renewable fuel feedstocks listed in the Regulations are:

(*a*) wheat grain;
(*b*) soy grain;
(*c*) grains other than those mentioned in paragraphs (*a*) and (*b*);
(*d*) cellulosic material that is derived from ligno-cellulosic or hemi-cellulosic matter that is available on a renewable or recurring basis;
(*e*) starch;
(*f*) oilseeds;
(*g*) sugar cane, sugar beets or sugar components;
(*h*) potatoes;
(*i*) tobacco;
(*j*) vegetable oils;
(*k*) algae;
(*l*) vegetable materials or other plant materials, other than those mentioned in paragraphs (*a*) to (*k*), including biomass;

(*m*) animal material, including fats, greases and oils;
(*n*) animal solid waste; and
(*o*) municipal solid waste.

*REVISED A.33: Are methanol or dimethyl ether renewable fuels? Are wood or other solid plant material renewable fuels?*

A liquid fuel is considered to be a renewable fuel for the purposes of these Regulations if it is produced from one or more of the listed renewable fuel feedstocks, complies with the maximum content of non-renewable substances allowed, and otherwise meets the definition of renewable fuel as set out in the Regulations.

Gaseous and solid renewable fuels at standard ambient temperature and pressure are not covered by these Regulations and cannot be used to create compliance units.

*A.34: Is hydrotreated vegetable oil a renewable fuel? Is it a biocrude?*

Vegetable oils are renewable fuel feedstocks from which a liquid renewable fuel can be produced. Hydrotreated vegetable oil would be considered to be a renewable fuel for the purposes of these Regulations, provided it complies with the maximum content of non-renewable substances, and otherwise meets the definition of “renewable fuel”. If used as a feedstock at a petroleum refinery, vegetable oil would be considered to be a biocrude for the purposes of these Regulations provided it meets the definition of “biocrude”.

*REVISED A.35: What options do I have to meet the renewable content requirements?*

Compliance with the renewable content requirements is entirely based on your ownership of compliance units at the end of the trading period in respect of a compliance period (e.g., by March 31, 2013 for the first gasoline and distillate compliance periods). You may create compliance units through a variety of ways (as set out in sections 13 to 16 of the Regulations) or you may acquire compliance units from others (as set out in section 20 of the Regulations).

*A.36: How can I comply with the Regulations if I have no available sources of renewable fuel?*

You may acquire compliance units from other participants in the trading system (as set out in section 20 of the Regulations).

*A.37: Do imports and exports include inter-provincial transfers of fuel?*

No, they do not. Imports and exports only include imports into Canada and exports from Canada. Where the Regulations require reporting by province of import or province of export, this is in regard to volumes imported into Canada, or exported from Canada, via that province.

*A.38: I import gasoline, diesel fuel or heating oil from one province into another. How do the Regulations apply to me?*

If that is your only activity, the Regulations do not apply to you. Interprovincial transfers of fuels are not imports into Canada. Imports into Canada come from another country.

*A.39: I reprocess used or virgin motor oil to create a fuel that can evaporate at atmospheric pressure, that boils within the range of 130°C to 400°C and that is for use in diesel engines. Am I considered a producer of diesel fuel under these Regulations?*

Yes, the activity described is the production of diesel fuel for the purposes of the Regulations.

*A.40: Why does the definition of "gasoline" include sub-octane gasoline (i.e., having a "road" octane of less than 86)?*

For the purposes of the Regulations, "gasoline" includes sub-octane blendstocks (or unfinished gasoline). A primary supplier's pool of gasoline which is required to have 5% renewable content includes such volumes. This approach captures blendstocks that will be blended with renewable fuel to become finished gasoline (usually downstream of the point of production).

*A.41: Why do these Regulations not address "gasoline-like blendstock" as do the Benzene in Gasoline Regulations and Sulphur in Gasoline Regulations?*

In those other regulations, gasoline-like blendstock is exempt from the compositional requirements. In the *Renewable Fuels Regulations*, gasoline-like blendstock (or unfinished gasoline) is part of a person's gasoline pool. This approach captures blendstocks that will be blended with renewable fuel to become finished gasoline.

*A.42: As a retailer of fuels, are there any new special requirements or procedures for selling fuels with renewable content?*

There are no special requirements under these Regulations for retailers of fuels with renewable content.

*A.43: Is fuel with renewable content compatible with my existing fuel storage tanks?*

You should discuss this issue with your fuel provider.

*A.44: Can the use of ethanol blends damage my vehicle engine, my boat engine, or smaller engines that I own (e.g., lawnmowers)?*

Most vehicles and equipment powered by gasoline engines are compatible with ethanol blends of up to 10% (E10). However, some older (pre-1980) vehicles and equipment and some two-stroke engines may require additional maintenance or modification before you fill them with ethanol-blended gasoline. Please check your owners' manuals for information on the use of ethanol-blended gasoline with your vehicle or equipment.

*A.45: Do the Regulations ensure that a renewable fuel will work in my vehicle or engine?*

The Regulations do not specify any requirements that would dictate the fitness for use of a renewable fuel – that aspect is left to fuel producers and sellers and organizations that establish commercial specification and standards for fuels (e.g., the Canadian General Standards Board).

*A.46: Do the Regulations include labelling requirements at the fuel pump for fuel that is sold?*

The Regulations do not generally require labelling at the pump. However, if a person wishes to create compliance units from high-renewable-content fuels or neat renewable fuels, the person must have evidence establishing that the final consumer of the fuel was informed of the nature of the fuel, either through documents provided directly to the consumer or by appropriate labels on the fuel dispensing pump.

*A.47: How does a consumer know if they are buying fuel with renewable content?*

It is common practice in the industry to label fuel-dispensing pumps that may dispense fuel with renewable content. Other than as described in the above response to question A.46, the Regulations do not set requirements for sellers of fuel to inform consumers of the renewable fuel content.

*A.48: Who is the "Minister" referred to throughout the Regulations?*

The Minister referred to is the federal Minister of the Environment.

*REVISED A.49: Will the Minister be granting a waiver from these Regulations if there are fuel shortages?*

On June 17, 2010, the federal government passed *Regulations Prescribing Circumstances for Granting Waivers Pursuant to Section 147 of the Act*. Under those Regulations, the Minister may grant temporary waivers to fuel Regulations made under section 140 of the *Canadian Environmental Protection Act, 1999*, provided that there is a fuel shortage (or one is anticipated) and there has been a declaration of a national, provincial or territorial emergency or a declaration that the fuel shortage could affect national security. The *Renewable Fuels Regulations* are under section 140 of the Act and so are covered by the waiver Regulations.

*A.50: What are the penalties if I do not comply with the Regulations?*

Compliance with the Regulations is mandatory. Environment Canada's *Compliance and Enforcement Policy for the Canadian Environmental Protection Act, 1999* sets out the criteria for responses by Environment Canada enforcement officers to alleged violations. A copy of Environment Canada's *Enforcement and Compliance Policy* is available from Environment Canada's *CEPA Environmental Registry* at: http://www.ec.gc.ca/CEPARegistry/documents/policies/candepolicy/toc.cfm

Under sections 272 and 273 of the Act, every person who is found guilty of contravening or failing to comply with the Act or its Regulations, or providing false or misleading information, is subject to fines or imprisonment. These sections should also be read in conjunction with section 276 of the Act which provides that where an offence is committed or continued on more than one day, then each day on which the offence occurred may be prosecuted as a separate offence.

In addition to financial and administrative penalties, if there is a contravention of the Regulations, under section 148 of the Act the Minister may require a producer, processor, importer, retailer or distributor to take any or all of the following measures:

- provide notification of the relevant characteristics of the fuel and of any danger to the environment or to human life or health that might be posed by the fuel;
- replace the fuel with fuel that meets the applicable requirement;

- accept return of the fuel from the purchaser and refund the purchase price;
- take other measures to mitigate the effect of the contravention on the environment or on human life or health; and
- report on the steps taken.

*NEW A.50.1: Will the reports required under these Regulations be used in the Parliamentary report provided for under subsection 140(7) of the Canadian Environmental Protection Act, 1999?*

It is possible that the information provided to Environment Canada under these Regulations would then be used to inform the Parliamentary report.

## GENERAL PROVISIONS OF THE REGULATIONS

### *Section 1 – Interpretation*

*B.1: Why do some of the definitions in the Renewable Fuels Regulations differ from the definitions of the same terms in other federal fuel Regulations?*

Definitions in the *Renewable Fuels Regulations* were initially developed from the definitions in other federal fuel Regulations. Differences were introduced only where warranted by the differing circumstances of the *Renewable Fuels Regulations*.

*B.2: Who is a primary supplier?*

Primary supplier is a term that has been used in other federal fuel Regulations. For the purposes of the *Renewable Fuels Regulations*, a primary supplier is a producer or importer of gasoline, diesel fuel or heating distillate oil. It is the primary supplier who must meet the renewable fuel volume requirements for its gasoline, diesel fuel or heating distillate oil.

*B.3: What is the difference between a production facility and a blending facility?*

A production facility is a petroleum refinery or another facility at which the production of gasoline, diesel fuel or heating distillate oil occurs. A blending facility is a facility where liquid petroleum fuel is blended with renewable fuel and may include a fleet of mobile facilities, such as cargo tankers, railway cars, boats and marine vessels. Facilities must be located in Canada.

A blending facility is not a production facility, unless the blending facility is on or adjacent to a petroleum refinery. This exception is to allow such integrated facilities to operate as one, and thus reduce the reporting and administrative burden on the primary supplier.

*B.4: Why do blending facilities include fleets of mobile facilities in which blending occurs?*

The blending of renewable fuels with petroleum fuels can, and does, occur in railway cars, trucks, boats and other mobile "facilities" of this nature. Where blending occurs in these types of facilities, the Regulations require records to be made and reports to be submitted for the fleet of such mobile facilities, rather than for each individual truck, rail car and boat.

*REVISED B.5: Does a production facility include mining operations that occur on my property?*

A production facility generally includes only the facility that actually produces gasoline, diesel fuel or heating distillate oil. This includes a bitumen upgrader if the facility produces any of those fuels.

At a bitumen upgrader (or a refinery) that is associated with a mining operation and that produces any of those fuels, the volume of the fuel that is dispatched from the production facility or dispensed into the fuel tanks of vehicles or other mobile equipment within the facility must be included in the facility's pool.

*B.6: Who is a participant in the trading system?*

A participant in the trading system is defined in section 10 of the Regulations. It is a person who is either a primary supplier or a person who has elected to participate in the trading system as an "elective participant." Participants are the only person who can create or trade compliance units.

*B.7: The notion of a "batch" is problematic because the number of batches to be produced according to the definition in the Regulations could be significant. Is it possible that every single truck may become a batch?*

The notion of batch has been defined in other federal fuel Regulations (e.g., the *Benzene in Gasoline Regulations* and the *Sulphur in Gasoline Regulations*). While the approach to defining "batch" in the *Renewable Fuels Regulations* is consistent with other federal fuels regulations, it does differ according to the circumstances of these Regulations.

A batch is "*an identifiable quantity of liquid fuel, with a single set of physical and chemical characteristics*." Depending on the individual circumstances surrounding the production of the batch, it may be as small as a single compartment tank within a tanker truck or as large as a pipeline shipment.

*B.8: Why are the first gasoline and distillate compliance periods longer than a year?*

The longer first compliance periods will provide some flexibility to address potential start-up issues, since a regulatee has some additional time to make up renewable fuel volume deficiencies that they might have had during the earlier part of the compliance period.

In 2006, the Government announced that the renewable fuel requirements would be on an annual average basis commencing in 2010. In developing the Regulations, it was decided that the initial compliance period should not be less than 12 months to aid in a smooth implementation of the requirements.

*REVISED B.9: Repealed.*

*B.10: How is "fuel" defined? Why isn't it defined in the Regulations?*

The term "fuel" is defined in the *Canadian Environmental Protection Act, 1999*, under which authorities the *Renewable Fuels Regulations* are enacted. The definition of "fuel" under section 3 of the Act is as follows:

> *"fuel" means any form of matter that is combusted or oxidized for the generation of energy.*

If a substance does not meet this definition, it is not a fuel under the Act, and consequently it is not a fuel under the *Renewable Fuels Regulations*.

*B.11: Why do gasoline, diesel fuel and heating distillate oil have two-part definitions, with the first part being whether the fuel is sold or represented as being suitable for a particular combustion device and the second part being a list of physical characteristics?*

The identification of whether a fuel is gasoline, diesel fuel or heating distillate oil will generally rely on how the fuel is being sold or represented. However, in the case of a dispute, the fuel will be defined by its physical characteristics. This two-part approach eliminates the need to require primary suppliers to test their fuels continuously and retain samples of it and reduces the need for Environment Canada's enforcement officers and

other parties to perform multiple tests – a costly endeavour. This two-part approach has been used in other federal fuels regulations.

*B.12: Why is the definition of gasoline different from that in the Sulphur in Gasoline Regulations and Benzene in Gasoline Regulations? Why is the definition of diesel fuel different from that in the Sulphur in Diesel Fuel Regulations?*

The definitions in the *Renewable Fuels Regulations* were initially developed from the definitions in other federal fuels regulations. Differences were introduced only where warranted by the differing circumstances of the *Renewable Fuels Regulations*.

*B.13: Why is it necessary to define finished and unfinished gasoline?*

The Regulations include two categories of gasoline: finished gasoline and unfinished gasoline. Finished gasoline is that which is ready to be used by the final consumer (with a "road" octane level of at least 86), while unfinished gasoline is sub-octane (from 80 to less than 86) material that needs the addition of additional blending material (likely renewable fuel) to make it ready for use by the final consumer.

While it is the volume of gasoline (both finished and unfinished) that comprises a primary supplier's gasoline pool, to ensure proper monitoring and enforcement of the Regulations, Environment Canada needs to be able to understand the movements of unfinished gasoline. Primary suppliers are therefore required to record and report on volumes of finished and unfinished gasoline, separately, under sections 29 and 30 of the Regulations.

*B.14: Is kerosene to be included in my distillate pool?*

Kerosene is a distillate fuel and it generally meets the specifications in paragraph (*b*) of the definition of diesel fuel in the Regulations. If represented as kerosene and sold or delivered for use in unvented space heaters, wick-fed lamps or flue-connected stoves and heaters, kerosene may be excluded from your pool under paragraph 6(4)(*f*) of the Regulations. There is also an exclusion for fuel sold for or delivered for use in aircraft under paragraph 6(4)(*a*). Other than the exceptions set out in subsection 6(4), kerosene meeting the compositional requirements and other criteria of diesel fuel under paragraph (*b*) of the definition, is to be included in your distillate pool.

*B.15: What is "liquid petroleum fuel" and why does it need to be defined?*

Liquid petroleum fuel is any liquid hydrocarbon-based fuel, including gasoline, diesel fuel and heating distillate oil, and may contain renewable fuel. Because renewable fuel added to any liquid petroleum fuel may create compliance units, this fuel needs to be defined.

*B.16: Can "liquid petroleum fuel" have renewable content? If so, how much?*

Yes, a liquid petroleum fuel may contain renewable fuel. There are limits on how much renewable fuel may be contained in a liquid petroleum fuel and still create a compliance unit. These are 85% for gasoline, and 80% for all other liquid petroleum fuels.

*B.17: If I produce a liquid petroleum fuel that does not meet the physical parameters of gasoline, diesel fuel or heating distillate oil, is it covered by the Regulations?*

If you sell or represent this fuel as gasoline, diesel fuel or heating distillate oil, or as fuel suitable for use in a spark-ignition or diesel engine, then the volume of this fuel is to be included in any pool you are required to calculate.

If it is not so sold or so represented, you may chose to create compliance units under sections 13 or 14 of the Regulations if you add renewable fuel to it, providing you are a participant in the trading system.

*B.18: What is a renewable fuel?*

A renewable fuel is any liquid fuel that meets the definition of "renewable fuel" in the Regulations. It must be liquid and produced from one or more of the substances listed in the definition of "renewable fuel feedstock". It may contain some non-renewable material, with prescribed maxima. For the purposes of these Regulations, ethanol and biodiesel are explicitly defined to be renewable fuels and spent pulping liquor is explicitly excluded from being a renewable fuel.

*B.19: Why is spent pulping liquor excluded from being considered a renewable fuel?*

As with the requirements in the U.S., the focus of the Canadian Regulations is on the renewable content of transportation fuels. However, unlike in the U.S., the Canadian approach has the additional flexibility of giving credit for adding renewable fuel to non-transportation fuels. Generally, this flexibility is not seen as significantly diminishing the renewable content of Canadian transportation fuels. However, that would

not be the situation if spent pulping liquor were considered under the Regulations to be a renewable fuel.

Spent pulping liquor, including “black liquor”, is a by-product of chemical pulping processes in pulp and paper facilities and may be burned as fuel to produce electricity in those facilities. It is derived from wood products and could be considered to be a renewable fuel in a loose, general sense, although it may contain quantities of chemicals that are not manufactured from renewable feedstocks. The volume of the spent pulping liquor currently being used as fuel in Canada is far larger than the volume of transportation-type renewable fuels being used now or anticipated to be used as a result of the Regulations. Consequently, if spent pulping liquor were not excluded from the definition of renewable fuel for the purposes of these Regulations, the number of compliance units generated from the use of spent pulping liquor as a fuel could saturate the trading system and thus limit the transportation-type renewable fuels that would be required and produced in Canada.

The use of spent pulping liquor as a fuel in the pulp and paper sector is being promoted through other Government programs, such as the Pulp and Paper Green Transformation Program (http://scf-cfs.rncan-nrcan.gc.ca/subsite/pulp-paper-green-transformation/quantification-black-liquor-production).

*B.20: Why are biodiesel and ethanol explicitly included in the definition of “renewable fuel”?*

Biodiesel is the most common form of renewable fuel for use in diesel engines, and will be for the foreseeable future, so an explicit inclusion was warranted.

Ethanol is the most common form of renewable fuel for use in gasoline engines and will be for the foreseeable future, so an explicit inclusion was warranted.

*B.21: Biodiesel is considered to be diesel fuel under the Sulphur in Diesel Fuel Regulations. Does that mean that it is a liquid petroleum fuel under these Regulations?*

No, it is not. Under the *Renewable Fuels Regulations*, biodiesel is a renewable fuel. Renewable fuels are not liquid petroleum fuels (although liquid petroleum fuels may contain renewable fuels), so “neat” biodiesel is not a liquid petroleum fuel.

*B.22: How much non-renewable material may a renewable fuel contain?*

A renewable fuel may contain small quantities of non-renewable material. It may contain additives and other non-renewable substances, provided that the combined volume of these substances is less than 1.5% of the volume of the fuel.

If the renewable fuel is ethanol, it may contain a hydrocarbon-based denaturant to render the fuel unsuitable for use as a beverage, of up to 4.76% of the volume of the ethanol. It may also contain up to 1% water and 1% other non-renewable substances.

*NEW B.22.1: Are the levels of non-renewable substances allowed in renewable fuel specified in percent by volume or percent by mass?*

The levels are all specified in percent by volume.

*B.23: How much denaturant can a renewable fuel contain?*

If the renewable fuel is ethanol, it must contain a hydrocarbon-based denaturant to render it unsuitable for use as a beverage. The minimum volume of denaturant is 0.96% of the total volume of the ethanol, while the maximum volume is 4.76%. Ethanol that does not contain any denaturant is not considered a renewable fuel for the purposes of these Regulations. Other renewable fuels may not contain denaturants.

*B.24: I add denaturant to pure ethanol. Does this activity make me a producer of ethanol as defined by the Regulations?*

The pure ethanol you started with is neither “ethanol” nor “renewable fuel” under the regulatory definitions. If the resulting ethanol has denaturant content of at least 0.96% of the total volume of the ethanol and not more than 4.76%, then under the regulation, yes, you would have produced that ethanol. In such a case, you would be subject to the requirements of the regulation that apply to producers of renewable fuels.

*NEW B.24.1: I import “natural gasoline” (i.e. unprocessed gasoline) as a denaturant for ethanol. Does this activity make me a primary supplier as defined by the Regulations?*

If the natural gasoline does not meet the definition of gasoline under these Regulations, it would not be covered by the Regulations and you would not be considered as a primary supplier. However, if the natural gasoline meets the definition of gasoline under these Regulations, it would be covered and you would be considered as a primary supplier.

*NEW B.24.2: I import ethanol without any denaturant. Does this activity make me an importer of renewable fuel as defined by the Regulations?*

No, it does not. Ethanol, as defined in the Regulations, must contain a denaturant. Refer to questions B.23 and B.24.

*B.25: How much water can a renewable fuel contain?*

For biodiesel and renewable fuels other than ethanol, the combined volume of water and other non-renewable substances cannot exceed 1.5% of the volume of the fuel.

For ethanol, water content cannot exceed 1.0% of the volume of the ethanol, while the combined volume of all other non-renewable substances cannot exceed 1.0%.

*B.26: If I import ethanol with a water content of higher than 1% or ethanol that does not contain a denaturant, have I imported a renewable fuel?*

No, you have not. Such ethanol does not meet the definition of "ethanol" in the Regulations and hence is not considered to be a renewable fuel for the purposes of the Regulations.

*B.27: I own and operate a plant which dehydrates ethanol that initially has a water content higher than 1%. Does this activity make me a producer of ethanol as defined by the Regulations?*

Ethanol with water content higher than 1% does not meet the definition of "ethanol" in the Regulations and hence is not considered to be a renewable fuel for the purposes of the Regulations.

If the resulting dehydrated ethanol has a water content less than 1% and meets the other criteria in the definition of "ethanol", then under the Regulations you would have produced the ethanol. In such a case, you would be subject to the requirements of the Regulations that apply to producers of renewable fuels.

*B.28: How do I determine whether ethanol or biodiesel that I buy was made from one of the renewable feedstock types?*

Subsection 32(9) of the Regulations requires that anyone creating compliance units from renewable fuel must have "*documentation that establishes that the fuel is renewable fuel as defined [by the Regulations]*." You may wish to ensure that you receive records from the seller of the renewable fuel that provide this documentation.

*B.29: What if I cannot determine whether ethanol or biodiesel that I buy was made from one of the renewable feedstock types?*

Subsection 32(9) of the Regulations requires that anyone creating compliance units from renewable fuel must have "*documentation that establishes that the fuel is renewable fuel as defined [by the Regulations]*." You may wish to ensure that you receive records from the seller of the renewable fuel that provide this documentation.

*B.30: Does a renewable fuel have to meet a series of specification, such as those listed in a standard published by the Canadian General Standards Board?*

The Regulations do not specify standards for renewable fuel beyond the maximum content of non-renewable substances. Renewable fuel is defined in the Regulations as being produced from one or more of the listed renewable fuel feedstocks. Ethanol must contain some denaturant (up to 4.76%) and may have some non-renewable content (up to 1.0%). Biodiesel and other renewable fuels (other than ethanol) may have up to 1.5% non-renewable content.

Many commercial arrangements and some provincial Regulations require that the renewable fuel meet a series of specifications. In addition, there are commercial standards for gasoline containing up to 10% ethanol by volume (E10) and for diesel fuel containing up to 5% biodiesel by volume (B5).

*B.31: How was the list of renewable fuel feedstocks developed?*

The list began with the feedstocks acceptable in the U.S. *Renewable Fuel Standard*. It was then adjusted through consultations with the Industry Technical Advisory Group (a group of technical experts from the petroleum and renewable fuel industries).

*B.32: Do the Regulations specify how the conversion of the various renewable fuel feedstocks must be done?*

No, they don't.

*B.33: Is waste carbon dioxide a renewable fuel feedstock?*

No, it is not, but it may be used in the production of renewable fuel feedstocks, such as in the growth (or production) of algae.

*B.34: Is spent pulping liquor a renewable fuel feedstock?*

Spent pulping liquor contains solvents and other chemicals that are not made from renewable sources. If these chemicals are removed so that the remaining liquid is made from renewable sources, the remaining liquid would only be considered to be a renewable fuel feedstock if it meets the regulation's definition of "renewable fuel feedstock".

*B.35: What is biocrude?*

Biocrude is a feedstock used in a petroleum refinery that is derived from one or more renewable fuel feedstocks. It replaces, in part, conventional crude oil. Because the biocrude is used in producing the various fuels at a refinery, most of the fuels will contain some level of renewable fuel, depending on the type of biocrude used as a feedstock and the processes used to produce the fuels.

A renewable fuel feedstock used in a facility other than a petroleum refinery may be producing a renewable fuel. In this case, the feedstock would not be "biocrude" under the Regulations.

*B.36: Why are refiners allowed to get credit for mixing biocrude with petroleum crude oil?*

Biocrude, which is made from renewable fuel feedstocks, displaces the use of petroleum crude oil and introduces some level of renewable content into one or more of the fuels that a refinery produces. Allowing the creation of compliance units from the use of biocrude provides an additional compliance option for regulatees, while maintaining the overall requirement for renewable content in liquid petroleum fuels.

*B.37: Doesn't the biocrude end just up in the bottoms of the distillation unit and not in the final products of gasoline, diesel fuel and heating distillate oil?*

The renewable content introduced into fuel products by the use of biocrude in a production facility will end up in a variety of final fuel products – which ones will be highly dependent on the type of biocrude used and the refinery processes used to create the fuel products. Based on consultations with the Industry Technical Advisory Group (a group of technical experts from the petroleum and renewable fuel industries), the Regulations differentiate between two types of biocrude and assign different yield factors for the creation of compliance units. As more information becomes available in the future on the types of biocrude and their uses and yields, new types of biocrude may be introduced and the existing yield ratios might be adjusted through amendments to the Regulations.

*B.38: Why is triglyceride-derived biocrude explicitly defined?*

While there are various types of biocrude, one type, triglyceride-derived biocrude, is expected to be used primarily in the production of distillate fuels, and not in other petroleum fuels. As such, the creation of compliance units from the use of this type of biocrude is treated differently from the other types of biocrude.

*B.39: What is high-renewable-content fuel?*

High-renewable-content fuel is a liquid petroleum fuel that has a higher than typical renewable fuel content. Compliance units for high-renewable-content fuels are created upon proof of blending or importation and are conditional upon proof of either use as a fuel in a combustion device or of being sold for use in a combustion device. This more stringent condition is required because of the greater potential for high level blends to be re-blended to create duplicate compliance units. In addition, there are also associated provisions requiring records establishing that the consumers of high-renewable-content fuels were informed about the nature of the fuel.

The threshold between high-renewable-content fuels and lower blends is 10% for gasoline, 5% for diesel fuel, and 25% for any other fuel. These blend thresholds align with the blend levels that are currently accepted in the marketplace and for which vehicle manufacturers warranty engines.

The maximum renewable fuel content of high-renewable-content fuel is 80% for non-gasoline fuels, based on a U.S. level for diesel fuel. For gasoline, the maximum level is 85% to allow for the use of E85. See also questions and answers in section L regarding limitations on creation of compliance units.

Renewable fuels that are chemically indistinguishable from liquid petroleum fuels (e.g., renewable diesel) are not covered by the definition of “high-renewable-content fuel”.

*B.40: What is a neat renewable fuel?*

The Regulations define “neat renewable fuel” as either (a) biodiesel, or (b) a renewable fuel that is produced at a facility that uses only renewable fuel feedstocks, is suitable for use in a combustion device and is chemically indistinguishable from any liquid petroleum fuel that is suitable for use in a combustion device.

*B.41: Does “neat renewable fuel” include ethanol and biodiesel?*

Neat renewable fuel is explicitly defined to include biodiesel. A fuel that is chemically distinguishable from a liquid petroleum fuel, such as ethanol, is not considered to be a neat renewable fuel for the purposes of the Regulations, even though it is a renewable fuel.

*B.42: Is pyrolysis oil considered renewable fuel? Is it a neat renewable fuel? Is it a biocrude?*

Pyrolysis oil may meet the definition of renewable fuel and could theoretically create compliance units under sections 13 and 14 of the Regulations. However, due to its physical properties, pyrolysis fuel is unlikely to be blended with liquid petroleum fuels.

As pyrolysis oil is not indistinguishable from petroleum fuels, it is not a "neat renewable fuel," as defined by the Regulations. Consequently, the use of 100% pyrolysis oil cannot create compliance units under section 16 of the Regulations.

Pyrolysis oil may meet the definition of biocrude. If it does, compliance units could be created under section 15 of the Regulations from the use of pyrolysis oil as a feedstock at a refinery.

*NEW B.42.1: Is liquefied biogas considered renewable fuel?*

The Regulations define "renewable fuel" as encompassing only liquid fuels. As liquefied biogas is not in a liquid form at standard ambient temperature and pressure conditions, it is not "renewable fuel" under the Regulations.

*B.43: What is a neat renewable fuel consumer and why is it necessary to define it?*

Compliance units may be created when a neat renewable fuel is used by the producer or importer of the neat renewable fuel as a fuel in a combustion device, or if the neat renewable fuel is sold to a consumer for use as a neat fuel in a combustion device. This consumer, the "neat renewable fuel consumer", is, in order of precedent: (1) the owner of a retail or card-lock facility, (2) the owner of a fleet into which the fuel is to be dispensed, and finally (3) the person who combusts the fuel. This structure is intended to avoid placing the administrative requirements of the regulation on owners of retail facilities. It ensures that compliance units are created by persons who are most likely to be otherwise participants in the trading system, and helps ensure that compliance units are available to primary suppliers.

It is important to note that it is the seller of the neat renewable fuel to the neat renewable fuel consumer that creates the compliance units, not the neat renewable fuel consumer. Refer to paragraphs 16(1)(*a*) and 16(2)(*a*).

*B.44: How is neat renewable fuel different from fuel produced from biocrude?*

Biocrude is defined as a renewable feedstock that is used in a conventional petroleum refinery in conjunction with crude oil and other petroleum-derived feedstocks. Neat renewable fuel is produced at a facility that does not use any crude oil or other petroleum-derived feedstocks (e.g., a "bio-refinery"). Compliance units can be created through the use of either biocrude or neat renewable fuel.

*B.45: What is the purpose of the trading period?*

All compliance periods end on December 31. The Regulations provide a three-month true-up period that allows the trading of compliance units for a given compliance period until the end of March. This period provides some additional time for primary suppliers to review their records and assess their compliance with the renewable fuel volume requirements of these Regulations. If a primary supplier finds itself short of the required amount of compliance units needed to meet its obligations under the Regulations, or alternatively, if it has a surplus of compliance units, it may wish to enter into trades with other participants. The trading period allows time for primary suppliers to find a trading partner and complete such transactions.

*B.46: Who is an authorized official?*

An "*authorized official*" is defined in section 1 of the Regulations. In respect of a corporation, an authorized official is an officer of the corporation who is authorized to act on its behalf. In respect to any other person (whether an individual, a commercial entity or a government body) the authorized official is the person authorized to act on behalf of the individual, commercial entity or government body. In respect of any other entity, it is a person authorized to act on its behalf. This definition has been used in other federal fuels regulations (e.g., the *Benzene in Gasoline Regulations* and the *Sulphur in Gasoline Regulations*).

*B.47: Can an officer of a corporation delegate an official or staff member of the corporation to act on his or her behalf for the purposes of being an "authorized official"?*

No.

*B.48: How was the definition of military combat equipment developed?*

The definition was developed in consultation with the Department of National Defence.

*B.49: Why does "scientific research" exclude marketing research?*

This definition has been used in other federal fuel Regulations (e.g., the *Benzene in Gasoline Regulations* and the *Sulphur in Gasoline Regulations*). Fuel sold for or delivered for use in scientific research may be excluded from a primary supplier's pool. This term is intended to include only pure scientific research. To ensure that the exclusion is not abused, the definition makes it clear that marketing research and similar research into the preferences of consumers is not considered to be scientific research.

*B.50: Why is "month" defined?*

For the purposes of the Regulations, a month is generally defined as a calendar month. However, for the period December 15, 2010 to January 31, 2011, a "month" is defined as that entire period. This is done for convenience of the regulatee so that they can combine the records for the half month of December 2010 with the full month of January 2011.

***Section 2 – Application***

*C.1: I am a small-volume importer (or producer) of gasoline, diesel fuel or heating oil. Am I a primary supplier under these Regulations?*

Yes, the Regulations do apply; however, if your volume is less than 400 $m^3$ per year, you are exempted from many, but not all, requirements.

*NEW C.1.1: What volumes do I include in determining whether I am above or below the 400 $m^3$ threshold specified in subsection 2(1)?*

The volume calculated for the purposes of subsection 2(1) includes the sum of the volume of all batches that you produce and import. No exclusions (such as those listed in subsection 6(4)) apply to this calculation. The calculation is done separately for gasoline and for diesel fuel and heating distillate oil. For example, if a primary supplier produces and imports in a year 300 $m^3$ of non-excluded diesel fuel and 200 $m^3$ of excluded diesel fuel (under section 6), its total volume would be 500 $m^3$. The primary supplier is therefore above the 400 $m^3$ threshold. Note that

the primary supplier can exclude 200 $m^3$ from its pool (as per section 6), but it must have renewable fuel content in the remaining 300 $m^3$.

*C.2: Why do most of the Regulations not apply to small-volume producers and importers? What parts do apply?*

The Regulations have extensive recordkeeping, reporting and auditing requirements to ensure the robustness and enforceability of the Regulations in general and of the system of tradeable compliance units. Imposing these full requirements would be a considerable burden to small-volume importers and producers (although there are no small-volume producers of gasoline, diesel fuel or heating distillate oil currently operating in Canada).

The Regulations specify a volume threshold for small volume importers and producers, under which, these persons are not subject to the majority of the requirements of the Regulations. The threshold for small-volume importers and producers in a given year is 400 $m^3$ of gasoline and 400 $m^3$ of diesel fuel and heating distillate oil. The threshold for small-volume producers is the same. During the first compliance period, which is longer than a year, the volume is to be determined over each consecutive twelve-month period (refer to question C.3).

For example, if a person imports in a year 300 $m^3$ of gasoline and 300 $m^3$ of diesel fuel, most of the Regulations would not apply to this importer.

On the other hand, if a person imports in a year 300 $m^3$ of gasoline, 300 $m^3$ of diesel fuel and 300 $m^3$ of heating distillate oil, the Regulations would apply in full to this importer, since it imported over the threshold; that is, 600 $m^3$ of diesel fuel plus heating distillate oil. Note that both the renewable fuel requirement for gasoline (5%) and the renewable fuel requirement for diesel fuel and heating distillate oil (2%, once in place), will apply to this person, regardless of its imports being below the threshold for gasoline.

Note also that this is a combined threshold for production plus importation. For example, a person who imports less than 400 $m^3$ of gasoline per year, but produces more than 400 $m^3$ of gasoline per year (even if they do not produce or import diesel fuel or heating distillate oil) would be required to comply in full with the Regulations in respect of the renewable fuel requirements.

The threshold of 400 $m^3$ per year is explicitly set out in subsection 140(3) of the *Canadian Environmental Protection Act, 1999*. It cannot be changed by any Regulations made under that Act.

While the majority of the requirements do not apply to small volume producers and importers some requirements do apply in order to verify that a primary supplier is indeed below the threshold. Specifically, the following requirements set out in the Regulations apply:

- to make records, under section 29, for each batch of fuel produced and imported (type of fuel, the volume of fuel, where the fuel was produced or into which province it was imported, and the date of production or importation);
- to keep these records and supporting documentation in Canada for five years, pursuant to section 38;
- to make these records as soon as feasible (but no later than 15 days after the information becomes available), under section 37; and
- to measure volumes in accordance with section 4.

*C.3: Why are these provisions based on less than 400 $m^3$ of fuel "during every period of 12 consecutive months in the gasoline [or distillate] compliance period"? What is meant by that phrase?*

The period over which the threshold value is to be determined is a "year", which is defined to be a period of 12 consecutive months. Each compliance period, other than the first one, is a single calendar year (i.e., January to December).

The first gasoline compliance period is 24½ months, and consists of parts of three calendar years. If a person exceeds the threshold of 400 $m^3$ during any 12 consecutive month periods during that first compliance period, they must comply with the Regulations in full. Examples of 12 consecutive month periods are: December 15, 2010 to December 14, 2011; November 1, 2011 to October 31, 2012; and January 1, 2012 to December 31, 2012.

*NEW C.3.1: When does the period start for the determination of the threshold for production and importation of 400 $m^3$ per consecutive twelve-month period?*

It starts at the beginning of each compliance period, with the first one starting December 15, 2010 for gasoline and July 1, 2011 for diesel fuel and heating oil.

*C.4: I only import (or produce) special use fuels. Am I a primary supplier under these Regulations?*

Yes, you are a primary supplier under the Regulations; however, you are exempted from many, but not all, requirements.

*C.5: Why do most of the Regulations not apply to producers or importers of only special-use fuels?*

The majority of the requirements do not apply to a primary supplier who only imports and/or produces special use fuels (e.g., fuel for use in aviation and competition vehicles, diesel fuel and heating distillate oil for use in military combat equipment, fuel for export, etc.). Consequently extensive recordkeeping and reporting requirements are not warranted.

However, some parts of the Regulations do apply to these primary suppliers, specifically, the requirements:

- to make records, under section 29, for each batch of fuel produced and imported (type of fuel, the volume of fuel, where the fuel was produced or into which province it was imported, and the date of production or importation);
- to keep these records, and supporting documentation in Canada for five years, pursuant to section 38;
- to make records as soon as feasible under section 37 (but no later than 15 days after the information becomes available);
- to measure volumes in accordance with section 4; and
- to have a record that establishes that the fuels were indeed sold for, or delivered for, the specified use (this is to verify that a primary supplier produced or imported only applicable special-use fuel).

*NEW C.5.1: I'm a primary supplier and sell fuel only in Newfoundland or in the North. Do these Regulations apply to me? Which records must I maintain? Can I create compliance units?*

Yes, as a primary supplier the Regulations apply to you. However, as all the fuel you produce and import is one of the excluded fuels under subsection 6(4), various recordkeeping and reporting provisions do not apply to you. These include the recordkeeping provisions of paragraphs 29(b), (f) and (g) and sections 31 and 32, and reporting provisions of 30, 33 and 35. If you do not produce and import more than 400 $m^3$ of renewable fuel, the audit report of section 28 also does not apply.

If you wish to create compliance units, you must opt-in to the requirements of the Regulations, as per section 3. Once you opt-in, you may create compliance units, however all of the requirements of the Regulations apply to you, including the 5% and 2% renewable fuel requirements of section 5. See also questions D.1 to D.7.

*REVISED C.6: As a small-volume producer or importer of renewable fuel, what obligations do I have?*

Producers and importers of less than 400 $m^3$ a year of renewable fuel are not required to keep specific records or submit registration or annual reports under section 34 of the Regulations. However, they must have supporting documentation to demonstrate that they produced or imported less than the threshold volume.

You may choose to have the Regulations apply to you and opt in under section 3 of the Regulations. In that case, you must meet all the requirements of the Regulations. See also questions D.1 to D.7.

*C.7: If I produce or import less than 400 $m^3$ of fuel in a year, but in previous years I had exceeded that threshold, does the exemption apply to me during that the low-volume year? Similarly, if in one year I only produced or imported specialty-use fuels, does the exemption apply in that one year?*

Yes, the exemptions apply on a year-to-year basis.

*C.8: Under what circumstances is the auditor's report not required?*

To be excluded from having to submit an auditor's report, a person must meet a number of criteria during the year for which the audit would be required. Specifically, the person must:

- produce and/or import less than 400 $m^3$ of gasoline and produce and/or import a combined volume of less than 400 $m^3$ of both diesel fuel and heating distillate oil and produce and/or import less than 400 $m^3$ of renewable fuel, or
- produce and/or import only specialty-use fuels (of any volume) and produce and/or import less than 400 $m^3$ of renewable fuel.

For example, a primary supplier of gasoline above the small-volume threshold for gasoline is not exempt from submitting an auditor's report just because it does not produce or import any renewable fuel. Similarly, a renewable fuel importer who imports above the small-volume threshold for renewable fuel is not exempt from submitting an auditor's report just because it did not import any heating distillate oil.

*C.9: Is there an exclusion for fuel imported in the fuel tank of a vehicle, as there is in other federal Regulations?*

Subsection 2(5) provides that the Regulations do not apply in respect of a fuel that is imported in a fuel tank that supplies the engine of a conveyance that is used for transportation by water, land or air.

*C.10: If I only import fuel in the fuel tank of a vehicle, am I a primary supplier?*

No, you are not a primary supplier since, under subsection 2(5), these Regulations do not apply in respect of such fuel.

### *Section 3 – Special Opt-in Provisions*

*D.1: Who would want to opt into a regulation that they are otherwise excluded from?*

A person may wish to opt into the Regulations if they determine there is a financial benefit to be had from them doing so. For example, a person importing small quantities of E85, or competition fuel with renewable content, may wish to create compliance units and sell them to other primary suppliers.

*D.2: Can I opt into the Regulations in order to create compliance units if I am a small-volume producer or importer, or if I only produce or import special-use fuels?*

Yes, you may. Regardless of any exemptions under section 2 of the Regulations, a person may opt into the requirements of the Regulations. However, you would then become subject to the Regulations in full, including the renewable fuel content requirements and all recordkeeping, reporting and audit requirements.

*D.3: What parts of the Regulations apply to me if I do opt into the Regulations?*

The Regulations apply in full to anyone who uses subsection 3(1) of the Regulations to opt into the Regulations, including the provisions for minimum renewable fuel content in gasoline, diesel fuel and heating distillate oil, the submission of a registration report, an annual report, an auditor's report and all recordkeeping requirements.

*D.4: How do I opt in to the Regulations?*

You opt in by sending a written notice to the Minister to that effect, specifying a date on which the Regulations will begin to apply to you. You must also send the applicable registration information under Schedule 1 or 6 of the Regulations and the report on measurement methods under Schedule 8.

*D.5: Can I opt out of the Regulations if I later change my mind?*

A person may rescind an opt-in notice by sending a written notice advising Environment Canada that they are ending their participation as of a specified date. They must provide any outstanding reports and notices. They must also cancel any unused compliance units that they own as of the specified date. These requirements are described in paragraphs 11(3)(*a*), (*b*) and (*c*) of the Regulations.

*D.6: If I opt out of the Regulations, what reports do I submit?*

A person must submit all reports that apply to that person for that portion of the compliance period prior to the date that they end their participation. This includes the appropriate annual reports and the auditor's report if applicable.

*D.7: If I opt out of the Regulations, do I have to meet the renewable fuel requirements for the portion of the compliance period that is prior to the date that I end my participation?*

Yes, you do.

### *Section 4 – Measurement of Volumes*

*E.1: Why do the Regulations specify requirements for how volumes must be measured when no other federal fuels regulations do?*

The regulated parameter under the *Renewable Fuels Regulations* is renewable fuel content and compliance is determined based upon volumes of renewable fuel, biocrude and liquid petroleum fuel. It is therefore essential that these volumes are determined accurately. Other federal fuel Regulations control parameters that are relatively independent of volumes produced, imported or blended.

*E.2: At what point do I measure the volume of a batch of liquid petroleum fuel produced at a production facility?*

Volumes are to be measured on dispatch of the batch from the facility, except for the following two cases:

- Fuel dispensed at a production facility into fuel tanks of vehicles or other mobile equipment is to be measured when the batch is sent to the fuel dispensing device or to the storage tank servicing that device. Alternatively, the measurement can be made when the batch is dispensed. Refer to paragraph 4(6)(*b*) of the Regulations for details.

- Fuel dispatched from a production facility via a series of railway cars in which the fuel flows between those railway cars may be measured during off-loading at the receiving facility, provided that both the loading and off-loading facilities are owned by the same person. (Refer to question E.26.)

*E.3: Am I required to measure the volume of a batch of liquid petroleum fuel produced at a production facility that is dispensed at the facility for use in non-mobile equipment?*

No. Such volumes are not included in your pool and hence they do not need to be measured (refer to subsections 6(1) and (2) of the Regulations).

*E.4: Subsection 4(6) addresses measurement of volumes at a production facility. I am an importer who picks up fuel at a U.S. refinery. Do the volumes I pick up need to be determined in accordance with subsection 4(6)?*

No. “Production facility” is defined to be a facility in Canada.

*E.5: I produce gasoline blendstock or distillate blendstock and dispatch it from my production facility. Do I need to measure the volume of these batches? Do I include them in my pool?*

If the fuel meets the definition of gasoline, diesel fuel or heating oil under these Regulations, then you must measure the volume of batches that are dispatched and include them in your pool.

*E.6: How must I measure volumes for the purposes of these Regulations?*

Volumes of fuels, including renewable fuels and biocrude, must be determined in one of two ways. You may determine the volume using either:

- a measurement device that complies with the federal *Weights and Measures Act* and all Regulations made under that Act, or
- a measurement standard or method that is cited in the American Petroleum Institute’s (API) *Manual of Petroleum Measurement Standards*, provided such a standard or method is applicable to the situation.

There are also provisions for circumstances were neither of these methods can be used (refer to question E.11), as well as transitional provisions (refer to question E.7).

You are required, under section 35 of the Regulations, to provide the information in Schedule 8 of the Regulations on how you will determine volumes.

Small volume (less than 400 $m^3$ a year) producers and importers of renewable fuels, gasoline, diesel fuel or heating distillate oil and those that only produce or import special use fuels are not required to submit the information in Schedule 8, unless they opt into the Regulations.

*E.7: What if I generally use measurement methods cited in the API manual, but do not follow them precisely?*

You must measure volumes in accordance with a standard or method cited in the API manual. However, as it may take you time to make the adjustment to fully comply with the cited methods, so subsection 4(2) of the Regulations allows for deviations from the cited methods for the first 180 days after the Regulations come into force (that is, until February 19, 2011), provided that you describe the deviation in your report on measurement methods.

*NEW E.7.1: Will the information on any deviation from API methods be included in the report on measurement methods under section 35, or do I have to report the deviation in my registration report under section 9, 11 or 34?*

The information on your deviation from API methods is reported under section 35 of the Regulations; specifically, you report it as per item 5 of Schedule 8.

*E.8: Am I required to provide the description of a deviation in measurement standards or methods that I use during the first 180 days?*

Yes, you must in the report on measurement methods, which is due at the end of this period. Item 5(c) of Schedule 8 includes the description of any deviation in measurement methods used during that 180-day period.

*E.9: When is the 180-day transitional period finished?*

The Regulations were registered on August 23, 2010, so 180 days after that date is February 19, 2011.

*E.10: How do I obtain copies of the API manual?*

Copies of the *Manual of Petroleum Measurement Standards* can be obtained from the American Petroleum Institute.

*E.11: How do I measure volumes if I cannot measure them using the prescribed devices, standards or methods?*

In unusual circumstances, the specified devices, standards or methods may not be applicable. In such a case, another method may be used, provided that the determination of the volume is made by a person who is independent of you and you obtain a record of the volume and the method used. In addition, you are also required to provide the information required under section 35 of the Regulations.

*E.12: How were these requirements for determining volume developed?*

The volume determination requirements were developed in consultation with the Measurement subgroup of the Industry Technical Advisory Group (a group of technical experts from the petroleum and renewable fuel industries) during the spring and early summer of 2009. Adjustments were made based on comments received on the proposed Regulations.

*E.13: Is there an additional burden on the regulatee by having to use these prescribed ways of measuring volumes?*

Since the measurement devices and the standards and methods referred to by the Regulations are industry standards and already widely used in the fuels industry, it is not expected that this requirement will create undue burden on the regulatee.

*E.14: Other federal fuels regulations require cubic metres as the units for volume, rather than litres. Why do these Regulations specify litres?*

For the *Renewable Fuels Regulations*, cubic metres are too large of a volumetric quantity in regard to compliance units. The U.S. requirements use gallons, rather than barrels or a larger unit as a volume metric. The Canadian Regulations specify litres. However, the Regulations include flexibility to use cubic metres for recording and reporting purposes, provided that certain records under various provisions of section 32 (in regards to compliance units) and section 29 (in regards to fuel dispensed into a vehicle's tank) are reported in cubic metres to three decimal places. Other records and reports may be recorded or reported in cubic metres to three, two, one or no decimal places.

*E.15: If I decide to use cubic metres instead of litres, why must some of my records be recorded to three decimals whiles others do not?*

For the purposes of these Regulations, some records must be more precise than others. Records related to renewable fuel and thus to the

creation of compliance units have to be recorded to three decimal places if cubic metres are used (i.e., to the same precision as if the records were in litres). This is to ensure that fractions of cubic metres are not rounded up to create additional compliance units.

Records on fuel used in on-site vehicles and other mobile equipment are also to be recorded to three decimal places. Since the fuel tanks of these vehicles may be less than 1 $m^3$, this requirement is to ensure fractions of cubic metres are not continually rounded down to zero.

*E.16: Can I use cubic metres as my units instead of litres even though many provisions explicitly refer to litres?*

Yes, you may. Subsection 4(7) allows for this flexibility.

*E.17: Why are the rules on rounding so complex?*

The provisions on rounding must align with the provisions allowing for the flexibility to use cubic metres instead of litres. They must also account for the various levels of precision required if cubic metres are used.

*NEW E.17.1: Why are the rules on rounding percentage of a volume of renewable fuel that is determined for the purpose of the definition "high-renewable-content fuel" in subsection 1(1) or of subsection 17(1) different than for rounding volumes?*

Rounding percentages for renewable fuel content is aligned with usual industry practice – it must be rounded to the nearest whole number percentage. If it is equidistant, then it is rounded to the nearest even whole number percentage (e.g., 10.50% becomes 10%, while 10.51% becomes 11%; 5.50% becomes 6%, while 5.49% becomes 5%).

*E.18: The measurement methods may not be accurate for measuring to the nearest litre. How do I comply with the Regulations which require reports and records on the basis of litres?*

Volumes must be measured in accordance with the applicable standard or method, to within the limits of its precision and reproducibility. The volume that is to be recorded and reported for the purposes of these Regulations is the volume that the standard or method determines.

*E.19: Why must volumes be corrected for temperature?*

It is general industry practice in Canada and in many other countries to correct the volume of a fuel to a standard temperature, and in some cases

it is a regulatory requirement. It would add an unnecessary level of complexity and increased administrative burden if the Regulations did not provide for temperature correction. The volume determination requirements, including corrections for temperature, were developed in consultation with the Measurement subgroup of the Industry Technical Advisory Group (a group of technical experts from the petroleum and renewable fuel industries) during the spring and early summer of 2009.

*E.20: How do I correct volumes for temperature?*

There are industry standard methods for correcting volumes for temperature (e.g., as described in the American Petroleum Institute's *Manual of Petroleum Measurement Standards*). Such methods are routinely used throughout Canada and elsewhere in the world.

*E.21: Why can only importers correct their volumes to 60°F?*

The Canadian industry standard temperature is 15°C. It is anticipated that most, if not all, companies operating in Canada already correct their volumes to this temperature. Importers from other countries may have corrected volumes to the Imperial standard of 60°F (or 15.6°C), or have had this correction already done by their supplier. The difference in the corrected volume between the two temperatures is not significant. To avoid unwarranted administrative burden, importers may use the Imperial standard temperature for volume correction under these Regulations.

*E.22: Am I required to correct volumes for temperature as soon as the Regulations come into effect?*

As it may take time to implement temperature corrections, subsection 4(5) of the Regulations provides an initial 180-day grace period (until February 19, 2011) during which volumes do not necessarily need to be temperature corrected, unless the volume is measured in accordance with the *Weights and Measures Act*.

*E.23: Why does the 180-day grace period for not having to correct for temperature not apply in respect of measurement devices complying with the Weights and Measures Act?*

Environment Canada does not believe it appropriate or necessary to provide a grace period in this circumstance, as such measurements of volume are already routinely corrected for temperature.

*E.24: Why must the volume of water contained in biocrude be subtracted from the total volume of the biocrude?*

Biocrude may contain a significant quantity of water, which has no useful energy content and does not displace conventional crude oil. This water is usually removed from the biocrude by the refiner prior to its use as a feedstock in the refinery. The Regulations require that the user of the biocrude mathematically subtract the volume of the water so that the water's volume is not counted towards the creation of any compliance units; it does not require that the water actually be extracted.

*E.25: How do I determine the volume of water contained in biocrude?*

Any method used will be situation-specific, depending upon refinery configuration and the nature of the biocrude. In the report required under section 35 of the Regulations, a regulatee must provide detailed information on "*the methodology for measuring and subtracting the water content of the biocrude*."

*E.26: I dispatch liquid petroleum fuel from a production facility via a series of railway cars in which the fuel flows between those railway cars. When do I measure volumes? What is so special about this circumstance?*

Paragraph 4(6)(*a*) of the Regulations addresses a situation where there is no established industry standard or method to measure fuel during on-loading into interconnected railway cars. This provision allows use of established industry standards or methods for measuring such volumes during off-loading at the receiving facility, provided that both the on-loading and off-loading facilities are owned by the same person. The provision accommodates a unique situation and does not impact the robustness of measurement as it pertains to these Regulations.

## PART 1 – REQUIREMENTS PERTAINING TO GASOLINE, DIESEL FUEL AND HEATING DISTILLATE OIL

### *Section 5 – Prescribed Levels*

*REVISED F.1: How were the requirements for a renewable content of 5% in gasoline and 2% in diesel fuel and heating distillate oil arrived at?*

In May 2006, federal, provincial and territorial ministers responsible for renewable fuels assembled for a dedicated meeting on the subject. Ministers discussed the opportunities that renewable fuels present for Canadians and agreed to work towards the finalization of a national strategy by the fall of 2006.

Extensive consultations were carried out on the development of a national renewable fuels strategy. Much of this was done through the federal-provincial-territorial Working Group on Renewable Fuels under the Council of Energy Ministers, which developed recommendations for a national framework on renewable fuels.

In late 2006, the government announced a four-pronged government strategy for renewable fuels, jointly developed by Environment Canada, Natural Resources Canada, and Agriculture and Agri-Food Canada. One of the components of the strategy is to increase the retail availability of renewable fuels. This is being done through the implementing the 5% and 2% requirements under these Regulations under the *Canadian Environmental Protection Act, 1999*. Refer to question A.2.

*F.2: How do I calculate the minimum volume of renewable fuel that I need in order to comply with the renewable fuel requirement for gasoline?*

Your minimum volume of renewable fuel required to meet the renewable fuel requirement for gasoline is 5% of your gasoline pool for any given compliance period (which is calculated in accordance with section 6 of the Regulations).

Compliance is demonstrated through ownership of sufficient gasoline compliance units, with each compliance unit representing one litre of renewable fuel. Distillate compliance units may also be used to meet your renewable fuel requirement for gasoline. Compliance units are created pursuant to sections 13 to 16 of the Regulations.

*F.3: The requirement of subsection 5(1) is for "5%" renewable fuel content. At the end of a compliance period, the renewable fuel content of my gasoline pool is 4.95%, which rounds to 5% - am I in compliance with the requirement of 5(1)?*

No. Subsection 5(1) requires that the quantity of renewable fuel be at least 5% of your gasoline pool.

*F.4: How do I calculate the minimum volume of renewable fuel that I need in order to comply with the renewable fuel requirement for diesel fuel and heating distillate oil?*

Your minimum volume of renewable fuel required to meet the renewable fuel requirement for diesel fuel and heating distillate oil is 2% of your distillate pool for any given compliance period. Compliance is demonstrated through ownership of sufficient distillate compliance units, with each compliance unit representing one litre of renewable fuel. Gasoline compliance units cannot be used to meet your renewable fuel

requirement for diesel fuel and heating distillate oil. Compliance units are created pursuant to sections 13 to 16 of the Regulations.

*F.5: How will I know at the start of a year how much renewable fuel I will need?*

You will not know precisely how much renewable fuel you will need to have in your gasoline, diesel fuel or heating distillate oil, or how many compliance units you will need to have, until you know the total volume of your gasoline and distillate pools, probably at the end of the year.

You may be able to estimate the amount based on your previous year's production and importation volumes of gasoline, diesel fuel and heating distillate oil. The monthly reconciliation of compliance unit balances in your compliance unit account book (required under section 31 of the Regulations) will provide a record of how many compliance units you have throughout the year.

An additional three months (until March 31) is provided after the end of the compliance period to allow primary suppliers to true up their account books, determine their pool volumes, calculate their renewable fuel volume requirements and to come into compliance with these requirements through the acquisition of additional compliance units if needed, or to trade any surplus compliance units to other primary suppliers.

*F.6: When do I have to meet the requirement of 5% for my gasoline pool?*

The requirement starts on December 15, 2010. The renewable fuel volume requirement for the first gasoline compliance period will be determined over the period December 15, 2010 to December 31, 2012 (a 24½-month period). There is also a further three months for the associated trading period. For the first compliance period, you must, on March 31, 2013, own gasoline compliance units that were created during or carried back into the compliance period sufficient to meet the 5% requirement.

For example, a primary supplier need not have any compliance units during the first few months of the first gasoline compliance period, but must then make up for this deficiency either through creating compliance units or acquiring them from others. If at the end of the first gasoline compliance period (December 31, 2012), the primary supplier still has a shortfall, it has until March 31, 2013 to acquire compliance units through trading with other participants in the trading system. A primary supplier also has an option under section 24 to carry back compliance units from

the first three months of 2013 to use for the first compliance period (refer to section 24 of the Regulations).

*REVISED F.7: When do I have to meet the requirement of 2% for my distillate pool?*

The requirement started on July 1, 2011. The renewable fuel volume requirement for the first distillate compliance period is to be determined based on the period from July 1, 2011 to December 31, 2012 (an 18-month period). In addition, there is an associated three month trading period following each compliance period. For the first compliance period, you must, on March 31, 2013, own distillate compliance units that were created during, carried forward into, or carried back into the compliance period sufficient to meet the 2% requirement.

For example, a primary supplier need not have any compliance units during the first few months of the first distillate compliance period, but must then make up for this deficiency either through creating compliance units or acquiring them from others. If at the end of the first distillate compliance period (December 31, 2012), the primary supplier still has a shortfall of distillate compliance units; it has until March 31, 2013 to acquire compliance units through trading with other participants in the trading system. A primary supplier also has an option under section 24 to carry back compliance units from the first three months of 2013 to use for the first compliance period (refer to section 24 of the Regulations).

*F.8: As an elective participant, do any of these renewable fuel requirements apply to me?*

No. An elective participant is not a primary supplier, and these requirements only apply to primary suppliers.

### *Section 6 – Gasoline Pool and Distillate Pool*

*REVISED G.1: What are my gasoline and distillate pools?*

A primary supplier's gasoline pool is the total volume of

- the batches of gasoline that it produces in Canada and, during the gasoline compliance period, either
  - dispatches from a production facility, or
  - dispenses into the fuel tank of a vehicle or other mobile equipment within a production facility; plus
- the batches of gasoline that it imports during the compliance period.

Similarly, a primary supplier's distillate pool is the total volume of

- the batches of diesel fuel and heating distillate oil that it produces in Canada and, during the distillate compliance period, either
  - dispatches from a production facility, or
  - dispenses into the fuel tank of a vehicle or other mobile equipment within a production facility; plus
- the batches of diesel fuel and heating distillate oil that it imports during the compliance period.

In special circumstances, as set out in section 6 of the Regulations, certain volumes may be subtracted from the pool.

Note that you must calculate your period-to-date gasoline and distillate pool volumes each month, as that is a basis for the limits on monthly ownership of compliance units under section 19. Subsection 32(7) requires you to make a record of this monthly limit. You must also calculate your distillate pool volume for the pre-distillate compliance period for the limits under section 19.

In addition, items 3 (*a*) and (*b*) of Schedule 4 require reporting in the early part of the first gasoline compliance period of the volume in your distillate pool determined using the appropriate part of the pre-distillate compliance period as if it were the distillate compliance period.

*NEW G.1.1: The 2011 amendments added flexibility to subtract, until December 31, 2012, diesel fuel or heating distillate oil sold for or delivered for use in Nova Scotia, New Brunswick, Prince Edward Island, and that part of Quebec that is on or south of 60ºN. In calculating my distillate pool volume for the pre-distillate compliance period under subsections 19(2) and 22.1(1) and for item 3 of Schedule 4, do I exclude such volumes?*

Subsection 6(4) is a permissive clause; it does not obligate you to subtract volumes of excluded types of fuels. You may, however, exclude such volumes.

*G.2: How is production defined?*

The term "production" is not defined in these Regulations or in the *Canadian Environmental Protection Act, 199*9. Consequently, the ordinary meaning of the term is applicable.

*G.3: If I produce gasoline, diesel fuel or heating distillate oil at my production facility for use in equipment at the production facility, is the volume of the fuel included in my pool?*

Fuel produced at your facility that is dispensed into vehicles or other mobile equipment at the facility is included in your pool. For some facilities, this may represent a significant volume of fuel.

Fuel produced at your facility that is dispensed into non-mobile equipment at the facility is not included in your pool. This exclusion means that fuel that is further processed or used to produce energy in facility process units is not included in your pool.

*NEW G.3.1: If I produce a batch of gasoline, diesel fuel or heating distillate oil but it is not dispatched nor used in any on-site mobile equipment, is the volume of that batch included in my gasoline/distillate pool?*

No, a batch that is neither dispatched from your production facility nor dispensed into on-site mobile equipment is not included in your pool.

*G.4: Under the Benzene in Gasoline Regulations and Sulphur in Gasoline Regulations, the pool for a refinery is determined based only on the volume "dispatched" from the production facility. Why do the Renewable Fuels Regulations include fuel that is used at the production facility in the pool?*

Under the *Renewable Fuels Regulations,* a refinery pool includes fuel dispensed at the facility into mobile equipment, as well as fuel dispatched from a facility. This approach captures a larger volume of fuel in the pool and consequently results in a larger requirement for renewable fuel. Comments were received on this aspect of the proposed Regulations both supporting it and opposing it. Supportive comments submitted that the approach was necessary to keep a level playing field between oil sands upgraders (some of which also produce diesel fuel).

*G.5: I produce a batch of unfinished gasoline and then add renewable fuel to it at my production facility to produce finished gasoline? Have I produced two batches of gasoline?*

Yes, however, only the batch that is dispatched from your production facility (or dispensed into mobile equipment at the facility) must be measured and included in your pool.

*NEW G.5.1: I produced and dispatched a batch of a diesel-like substance to another refinery for final processing. Who includes this batch in their pool?*

If the substance you produced meets the definition of diesel fuel, you must include the volume of the batch in your pool. If the other primary supplier produces a batch of diesel fuel or heating distillate oil from that batch it received, it only needs to include in its pool that portion of the volume that

is incrementally produced (i.e. exceeds the volume of the other batches received) – refer to subsection 6(3) of the Regulations. That primary supplier must, under section 29, record this incremental production as part of its distillate pool.

If the substance does not meet the definition of diesel fuel when it is dispatched from your refinery, you would not include the volume of the batch in your pool. In that case, if the substance meets the definition of diesel fuel when it is dispatched from the other refinery, the other primary supplier must include the volume of the batch in its pool.

*G.6: What happens if I import a batch of off-spec gasoline (or diesel fuel or heating oil) and blend or process it at my production facility to produce on-spec fuel? Is there any difference if the imported batch is a gasoline or distillate blendstock?*

If you imported a batch of a fuel that meets the definition of gasoline (or diesel fuel or heating oil) under these Regulations, then its volume must be included in your pool. Subsection 6(3) addresses the situation where a batch of gasoline, diesel fuel or heating oil is produced at a facility from other batches of fuel received at that facility. For the final batch of on-spec fuel that you produce at your production facility, you include in your pool only the incremental volume produced at your facility.

The above applies equally in respect of a gasoline or distillate blendstock if the blendstock meets the definition in the Regulations of gasoline, diesel fuel or heating distillate oil.

*G.7: What happens if I purchase a batch of off-spec gasoline (or diesel fuel or heating distillate oil) and blend or process it at my production facility to produce on-spec fuel? Is there any difference if the purchased batch is a gasoline or distillate blendstock?*

If you purchase a batch of a fuel that meets the definition of gasoline (or diesel fuel or heating distillate oil) under these Regulations, then its volume is required to have been included in the pool of the primary supplier that produced or imported the fuel. Subsection 6(3) addresses the situation where a batch of gasoline, diesel fuel or heating oil is produced at a facility from other batches of fuel received at that facility. For the final batch of on-spec fuel that you produce at your production facility, you include in your pool only the incremental volume produced at your facility.

The above applies equally in respect of a gasoline or distillate blendstock if the blendstock meets the definition in the Regulations of gasoline, diesel fuel or heating distillate oil.

*REVISED G.8: What volumes may I subtract from my pools?*

You may subtract from your total gasoline pool, the volumes of all specialty-use gasoline that you sold for, or delivered for, use in the applicable situation, and similarly from your total distillate pool, the volumes of all specialty-use diesel fuel and distillate heating oil. You must have a record that establishes that these volumes were sold or delivered for the specified use. These specialty-use fuels are: fuel for use

- in aircraft,
- in competition vehicles,
- in scientific research,
- as feedstock in the production of chemicals other than fuels in a chemical manufacturing facility,
- in the case of diesel fuel and heating distillate oil,
    - in military combat equipment,
    - represented as kerosene, in unvented space heaters, wick-fed illuminating lamps, or flue-connected stoves and heaters,
- in the North (Yukon, the Northwest Territories, Nunavut, Quebec north of 60°N), and
- in Newfoundland and Labrador.

In addition, a primary supplier may subtract from its distillate pool any diesel fuel or heating distillate oil that was, until December 31, 2012, for use in Nova Scotia, New Brunswick, Prince Edward Island and Quebec on or south of 60°N. Also refer to question G.1.1.

Fuel for export (or fuel in transit through Canada from a place outside Canada to another place outside Canada) may also be subtracted from your applicable pool.

The renewable fuel portion contained in any batch of fuel that is in your pool may be subtracted from that pool, provided that there are records establishing that the volume is in fact, renewable fuel. Similarly, if biocrude was used to produce a batch of fuel that is in your pool, you may subtract a portion of the volume of biocrude used to produce that fuel from your pool. The portion of the volume subtracted, and the pool from which it is subtracted, is dependent on the type of biocrude – details are set out in subsections 6(6) and 6(7) of the Regulations. These portions align with the factors used for the creation of compliance units from the use of biocrude under section 15 of the Regulations.

All subtractions from pool volumes are optional. You are never required to subtract the above volumes from your pools and you may choose not to.

*G.9: What records do I need to demonstrate that the fuel was sold or delivered for one of the prescribed uses?*

You must have a record that clearly demonstrates that the fuel was so sold or delivered. A variety of records in current use may suffice. If for any reason a record of the applicable use is not available for a volume of fuel, that volume may not be subtracted from your pool.

*REVISED G.10: Why are some volumes of fuels excluded from my pools?*

Fuels for certain special uses may not be suitable for the addition of renewable fuel because of the nature of their use. Some examples of this are gasoline used in aircraft or competition vehicles and diesel fuel or heating distillate oil used in military vehicles and engines. Fuel used for scientific research may be custom-made for the individual needs of the researchers, depending on the nature of the scientific inquiry and could have a considerable variation in its parameters.

Exports are excluded because this regulation is intended to only cover fuel used in Canada.

Fuel for use in Yukon, the Northwest Territories and Nunavut, plus the northernmost parts of Quebec (above 60°N), and in Newfoundland and Labrador, is excluded due to various factors, including generally poor extreme cold-weather performance of fuels containing some renewable fuels, limited logistical infrastructure for the distribution of fuels, limited supply options, and factors related to security of supply and availability of renewable fuel in these regions.

In addition, as a temporary transitional flexibility, diesel fuel and heating distillate oil for use in Nova Scotia, New Brunswick, Prince Edward Island and Quebec on or south of 60°N may, until December 31, 2012, be excluded from the primary supplier's distillate pool.

*G.11: Why are diesel fuel and heating distillate oil for use in military combat equipment subtracted from the distillate pool, but not gasoline for the gasoline pool?*

The specialized diesel engines in some military combat equipment cannot, at present, run on diesel fuels with renewable content. Furthermore, logistical issues during joint international training exercises and combat situations could arise, as some NATO allies will not accept renewable fuel content in diesel fuel to be used in their military combat equipment. These issues are only in relation to diesel engines in military combat equipment,

and not to gasoline engines in military combat equipment, which can operate on gasoline with a renewable content.

This exclusion for diesel fuel and heating distillate oil for use in military combat equipment was developed in consultation with the Department of National Defence.

*G.12: If I produce and sell diesel fuel or heating distillate oil to the Department of National Defence, can I exclude this volume from my distillate pool?*

You may exclude a volume that was sold or delivered for use in military combat equipment, provided that you have records establishing that the volume was sold or delivered for that use. If you cannot obtain such records, you may not exclude that volume. Fuel sold or delivered to the Department of National Defence for use in other types of equipment cannot be excluded from your pool.

*REVISED G.13: Why may gasoline, diesel fuel and heating distillate oil for use in Newfoundland and Labrador be subtracted from the gasoline and distillate pools?*

After consulting on the logistical infrastructure for the distribution of gasoline, diesel fuel and heating distillate oil and the supply options and availability of renewable fuel in Newfoundland and Labrador, the Government decided that gasoline, diesel fuel and heating distillate oil used in this province would be excluded from a person's gasoline or distillate pool. Consequently, a primary supplier (anywhere in Canada) may exclude the volume of gasoline, diesel fuel and heating distillate oil that it sold or delivered for use in Newfoundland and Labrador.

*NEW G.13.1: Until December 31, 2012, why may diesel fuel and heating distillate oil that was sold for or delivered for use in Nova Scotia, New Brunswick, Prince Edward Island and Quebec on or south of 60°N be excluded from my distillate pool?*

These exemptions were added as a transitional flexibility mechanism, mainly to give fuel suppliers in these provinces sufficient time to install necessary infrastructure.

*REVISED G.14: If I am located outside of the North or Newfoundland and Labrador (or from July 1, 2011 until December 31, 2012 and only in regards to diesel fuel or heating distillate oil, I am located outside of Quebec and the Maritimes), but supply a volume of fuel into these areas, can I subtract that volume of fuel?*

Yes, you can. Any primary supplier producing or importing fuel for use in these areas, regardless of where the fuel is produced or imported, may exclude the volume of such fuel from its pool. If you withdraw fuel from a terminal located in these areas, you may exclude the volume of that fuel up to the total volume which you produced (or imported) and delivered to that terminal during the compliance period.

*REVISED G.15: If I am located in the North or Newfoundland and Labrador (or from July 1, 2011 until December 31, 2012 and only in regards to diesel fuel or heating distillate oil, I am located in Quebec and the Maritimes), but supply a volume of fuel outside of these areas, can I subtract that volume of fuel?*

No, you cannot. Volumes of fuel produced or imported for use in places outside of these areas (whether or not they were produced in or imported into these areas) must be included in your pool (unless some other exclusion applies).

*REVISED G.16: I produce:*

*(a) a batch of gasoline, diesel fuel or heating distillate oil and sell a portion of it into the North or Newfoundland and Labrador and the rest of it to somewhere else in Canada; or*

*(b) a batch of diesel fuel or heating distillate oil and sell a portion of it into Quebec or the Maritimes and the rest of it to somewhere else in Canada.*

*What can I subtract from my pool?*

Provided that you have records (see question G.9) demonstrating the sale for or delivery for use of that portion of gasoline, diesel or heating oil into the North or Newfoundland and Labrador, you may subtract the volume so sold or delivered from your pool. The volume of the gasoline, diesel fuel or heating distillate oil sold or delivered for use elsewhere in Canada may not be subtracted from your pool (except until December 31, 2012, for diesel fuel or heating distillate oil sold or delivered for use in the Maritimes (Nova Scotia, New Brunswick, Prince Edward Island) and Quebec on or south of 60°N).

*NEW G.16.1: Between July 1st, 2011 and December 31, 2012, through an exchange agreement I (as a primary supplier of diesel fuel) provide a volume of diesel fuel in Ontario to another primary supplier and in return receives an identical volume of diesel fuel in Quebec or Atlantic Canada from that primary supplier. Can I subtract the volume of diesel fuel from my distillate pool that I received in Quebec or Atlantic Canada?*

No, you cannot. Only the primary supplier of the diesel fuel for use in Quebec or Atlantic Canada can subtract the volume from their distillate pool.

*G.17: Are volumes of my unfinished gasoline, gasoline-like blendstocks or "CBOB" blendstock included in my gasoline pool?*

Generally, yes. If the fuel meets the definition of "gasoline" in the Regulations, which includes suboctane blendstocks (or unfinished gasoline), then volumes of batches dispatched from the production facility or dispensed into mobile equipment at the facility, are to be included in your pool. This approach captures blendstocks that will be blended with renewable fuel to become finished gasoline.

This approach varies somewhat from that of the *Benzene in Gasoline Regulations* and the *Sulphur in Gasoline Regulations*. Under those Regulations, gasoline-like blendstock is encompassed in the definition of "gasoline", but is not captured in a primary supplier's pool until further processed.

*REVISED G.18: What do I exclude from my pool if I do not know whether jet fuel that I produced will be sold for use in aircraft, as originally intended, or blended into diesel fuel at a facility downstream of my refinery?*

This issue relates to the cold weather operation of adding diesel-like blendstocks (primarily jet fuel) to diesel fuel to ensure proper cold-weather performance.

Under these Regulations, only the volumes of jet fuel used in aircraft (and not as a seasonal blending component for diesel) can be excluded from the distillate pool, and only once the precise volume sold for use in aircraft is known and recorded. This means that initially all jet fuel would be included in your distillate pool. If you have records establishing that a volume was sold or delivered for this use you may then subtract that volume from your pool.

*NEW G.18.1: Is it possible to exclude jet fuel from the distillate pool at the time of production and importation?*

The volumes of jet fuel produced and imported may be deducted from the distillate pool if they are delivered or sold for use in aircraft, provided that the record demonstrating it was sold or delivered for use in aircraft is made before the end of the trading period.

*G.19: What if I produce or import a fuel for a non-fuel use, such as for use as a solvent or a chemical feedstock?*

Under paragraph 6(4)(*d*) of the Regulations, fuel used as feedstock in the production of chemicals (other than fuels) in a chemical manufacturing facility may be excluded from your pool, provided that there are records evidencing the volume. You may not subtract that volume if it was used in the chemical manufacturing facility as a feedstock to produce other fuels.

*NEW G.19.1: I am importing reference gasoline for testing octane levels at my refinery. Can this fuel be excluded from my pool as fuel for scientific research?*

No, it cannot. Such fuel is not intended for scientific research, but part of routine assessment of fuel quality.

*REVISED G.20: What if I import diesel fuel and later blend it into marine fuel?*

Imports of diesel fuel are to be included in your distillate pool. There is no exclusion for volumes used in marine fuel.

The Regulations provide flexibility in allowing primary suppliers to choose which distillate petroleum stream to add renewable fuel content to. Where a primary supplier decides it is not desirable to add renewable fuel content to a particular distillate fuel type, such as marine diesel fuel, the averaging provisions and other flexibilities in the Regulations allow for those volumes to be made up by blending elsewhere. In addition, where a primary supplier does not wish to add renewable fuel to its petroleum fuel, it can obtain compliance units from other parties through the trading system.

*REVISED G.21: I produce or import naphtha or kerosene for use in drilling or fracking operations. Am I subject to the Regulations? Can I exclude the volume of the naphtha or kerosene from my pool?*

In the case where the naphtha or kerosene is not to be used as a fuel (as per the definition of fuel in the *Canadian Environmental Protection Act, 1999*: any form of matter that is combusted or oxidized for the generation of energy), the naphtha or kerosene is not covered by the Regulations and the volume would not be included in your pool, provided that the naphtha or kerosene non-fuel use is documented.

*NEW G.21.1: I produce or import gasoline for use as a diluent only. Am I subject to the Regulations? Can I exclude this volume from my gasoline pool?*

In the case where gasoline is not to be used as a fuel (as per the definition of fuel in the *Canadian Environmental Protection Act, 1999*: any form of matter that is combusted or oxidized for the generation of energy), the gasoline is not covered by the Regulations and the volume would not be

included in your pool, provided that the gasoline's non-fuel use is documented.

*G.22: Is naphtha that I produce at my refinery considered to be part of my gasoline pool?*

If a batch of naphtha meets the definition of gasoline under these Regulations and is dispatched from the facility or dispensed into mobile equipment at the facility, its volume is to be included in your gasoline pool. If it does not, its volume is not part of your gasoline pool.

*G.23: Why is the renewable content of a fuel subtracted from the pool?*

The intent of these Regulations is to require the addition of renewable fuels to conventional petroleum fuels, and not to other renewable fuels. To ensure that a primary supplier's pool only consists of petroleum fuel, a primary supplier may subtract the volume of any renewable fuel in its pool (provided that there are records evidencing that volume).

*G.24: Why is only a portion of the biocrude used as feedstock subtracted from the pool? What is the rationale behind the percentages and why do they differ depending on the type of biocrude used?*

Only a portion of renewable fuel is subtracted from a primary supplier's pool due to yield losses in the refining processes related to the use of biocrude. These yield losses vary with type of biocrude. The portion percentages for triglyceride-derived biocrude and the other types of biocrude were developed in consultation during the spring of 2009 with the Industry Technical Advisory Group (a group of technical experts from the petroleum and renewable fuel industries). These percentages are based on the data that were at hand at the time, and may change in the future as more data become available.

*G.25: A batch of fuel that meets the Regulations' definition of diesel fuel is transferred to me from the primary supplier who produced it. I then process this batch for the primary supplier and then return the batch to them. Can I exclude that production from my pool?*

You need not include the volume in your distillate pool. Since the batch of fuel met the definition of diesel fuel when you received it, you did not produce diesel fuel in respect of the batch. The producer of the original batch must include its volume in their distillate pool. However, any incremental volume produced by you in excess of the original volume of the batch would be included in your pool.

*G.26: I have a processing agreement where I process crude oil for someone else and charge them a processing fee. I then supply that person with the finished gasoline at my distribution terminal. Can I exclude that production from my gasoline pool?*

No, you cannot exclude it. Because you produced the gasoline, you must include it in your gasoline pool if it is dispatched from the facility or dispensed into mobile equipment at the facility.

*NEW G.26.1: If I import a volume of gasoline and sell it to my affiliate who then exports a portion of the volume, can I exclude that portion from my import pool?*

No, you may not. The imported gasoline is transferred in Canada to another party, and so it cannot be excluded from your import pool.

### *Sections 7 and 8 – Compliance Units and the Quantity of Renewable Fuel*

*H.1: What is a compliance unit?*

Compliance units represent litres of renewable fuel – generally, one compliance unit equates to one litre of renewable fuel that is for use in Canada (or to a portion of biocrude used at a refinery). Compliance units are created under the provisions of these Regulations by activities such as adding renewable fuel to liquid petroleum fuel, importing liquid petroleum fuels with renewable fuel content or by using biocrude, and they are tradeable.

There are two types of compliance units: gasoline and distillate. Gasoline compliance units are used to demonstrate compliance with the 5% renewable fuel requirement based on gasoline, and distillate compliance units are used to demonstrate compliance with the 2% renewable fuel requirement in diesel fuel and heating distillate oil. Distillate compliance units may also be used to meet the renewable fuel requirement for gasoline.

A compliance unit may only be used once and only to demonstrate compliance in respect of the compliance period during which it was created, or into which it was carried forward or carried back. For any compliance period, at the end of the trading period (i.e. March 31$^{st}$ after the compliance period ends), a primary supplier must own sufficient compliance units that were created during, carried forward into, or carried back into, the compliance period to meet their renewable fuel volume requirements.

For more details, refer to the questions and answers below in Section K on the creation of compliance units.

*H.2: Why are there gasoline compliance units and distillate compliance units? What is the difference?*

Gasoline compliance units can only be used to meet the requirement for 5% renewable fuel content in the gasoline pool. Distillate compliance units can be used towards meeting either the 5% requirement, or the requirement for 2% renewable fuel content in the distillate pool.

Distillate compliance units may be created in respect of renewable fuel content in diesel fuel or heating distillate oil, by the use of neat renewable fuel that displaces diesel fuel or heating distillate oil (e.g., through the use of neat renewable fuel in a diesel engine or a domestic-type oil burner) or from the use of biocrude in a refinery.

Gasoline compliance units may be created in respect of renewable fuel content in gasoline or any other type of liquid petroleum fuel other than diesel fuel or heating distillate oil, by the use of neat renewable fuel that displaces liquid petroleum fuel, other than diesel fuel or heating distillate oil (e.g., through the use of neat renewable fuel in a gasoline engine, industrial combustion device or other combustion device) or from the use of biocrude in a refinery.

*H.3: Why can't gasoline compliance units be used to meet the renewable fuel requirement for diesel fuel and heating distillate oil when distillate compliance units may be used to meet the renewable fuel requirement for gasoline?*

This one-way flexibility is intended to promote a Canadian market for renewable fuels for use in distillate fuels.

*H.4: What is the difference between a compliance unit and a RIN?*

A compliance unit is created under the Canadian *Renewable Fuels Regulations*, while a RIN (or "renewable identification number") is created under the U.S. *Renewable Fuel Standard*. They are not the same and cannot be used in place of one another.

*H.5: Can I use EPA's RINs to meet the requirements of the Canadian regulation?*

No. A U.S. RIN cannot be used to meet the requirements under the Canadian Regulations. A Canadian compliance unit cannot be used in place of a U.S. RIN. The two regulatory regimes are entirely separate.

*H.6: Will Environment Canada issue compliance units?*

No. Compliance units are created by participants in the trading system pursuant to the provisions of these Regulations.

*H.7: How do I get compliance units?*

Participants in the trading system may create compliance units pursuant to the provisions of these Regulations. Primary suppliers may also acquire compliance units from other participants.

*H.8: How do I use compliance units to establish compliance with section 5 of the Regulations?*

Your end-of-trading period balances for the compliance units that you own are calculated in accordance with section 8 of the Regulations. This balance represents the volume of renewable fuel in your gasoline and distillate pools.

*H.9: The various parameters of the equations in section 8 of the Regulations are set out as "in respect of a gasoline [or distillate] compliance period". What does that mean?*

Compliance for a compliance period is based on compliance units created during the period as well as compliance units carried forward or back into the compliance period. The phrase "*in respect of a gasoline [or distillate] compliance period"* encompasses such compliance units.

*H.10: After the end of the trading period in respect of a compliance period, I discovered an error in my calculation of the volume of renewable fuel in my pool – my actual quantity of renewable fuel was less than required under section 5 of the Regulations. How do I correct this?*

Compliance with the requirements of section 5 is determined based on the number of compliance units in respect of the compliance period that you own at the end of the trading period. The trading period, which ends three months after the compliance period ends (i.e., March 31), is to provide additional time for you to ensure that you have sufficient compliance units to be in compliance. If you are in a deficit situation, prior to the end of the trading period, you may acquire compliance units from other participants, or use the carry back mechanism described under section 24 of the Regulations.

If you do not own sufficient compliance units at the end of the trading period in respect of the compliance period, then you would be out of compliance with the Regulations.

*H.11: Can I use any compliance units I own to meet the requirements?*

Compliance units used to establish compliance with the requirements for a given compliance period must be owned by you at the end of the trading period associated with that compliance period. They must have been:

- created during that compliance period,
- carried forward into that compliance period, or
- carried back into that compliance period.

This includes such compliance units received in trade during the compliance period or its associated trading period.

A gasoline compliance unit may only be used to meet the 5% renewable fuel requirement for gasoline. A distillate compliance unit may be used to meet either the 2% renewable fuel requirement for diesel fuel and heating distillate oil or the 5% renewable fuel requirement for gasoline, but not both.

*H.12: Can I later trade compliance units that I have used for compliance?*

No. Compliance is based on the number of compliance units that you own at the end of the trading period in respect of a compliance period. Once a compliance unit has been used to demonstrate compliance, it cannot be re-used. Any compliance units that are in excess of the amount required for compliance may be carried forward into a subsequent compliance period, subject to specified conditions set out in the Regulations. For more details, refer to the questions and answers below in Section O on the carry forward of compliance units.

*H.13: Where do the Regulations indicate that compliance is based on how many compliance units I own at end of a trading period?*

The volume of renewable fuel in your pool is calculated according to the formula in Section 8. A number of the parameters in the formulae will not be known until the end of the trading period, such as the number of compliance units received in trade, the number of compliance units transferred to another primary supplier and the number of compliance units carried back. The phrase "*in respect of a gasoline [or distillate] compliance period*" is used to denote this.

*H.14: What do I include as cancelled compliance units in the terms "$Can_G$" and "$Can_D$" which appear in the formulae in Section 8?*

These terms are the sum of compliance units cancelled for carry back under subsection 25(1), for exported renewable fuel content under subsection 25(2), and for units in excess of the monthly maximum under subsection 25(3). The terms do not include cancellation of unused compliance units under subsection 25(4) as this occurs at the end of the trading period after the compliance units are used in the assessment of compliance through the equations in section 8. Compliance units cancelled by a person due to them rescinding their opt-in under subsection 3(3) are also not included in the cancellation terms $Can_G$ and $Can_D$.

*H.15: For the terms $CB_G$ and $CB_D$, why must I subtract the compliance units that I carried back into previous gasoline compliance period?*

Compliance units that are carried back are moved from one compliance period into the preceding period. The subtraction reflects the transfer of those compliance units out of the compliance period that they are moved from.

*H.16: How do I assign distillate compliance units to meet the renewable fuel requirement for gasoline?*

Only a primary supplier can make such an assignment. The formula for calculating the volume of renewable fuel in your gasoline pool in subsection 8(1) of the Regulations contains a parameter ($DtG_{DG}$) that represents the number of distillate compliance units that you choose to use to meet the renewable fuel requirement for gasoline. You may assign any number of distillate compliance units that you own to this variable, as long as you assign the same number to the corresponding parameter ($DtG_{DD}$) in formula in subsection 8(2), for calculating the volume of renewable fuel in your distillate pool.

The assignment of distillate compliance units to the renewable fuel requirement for gasoline must be recorded in your compliance unit account book under paragraph 31(2)(*l*) of the Regulations and reported in your annual report under section 30 of the Regulations (specifically in item 2 of Schedule 4 of the Regulations).

*H.17: When do I assign distillate compliance units to meet the renewable fuel requirement for gasoline?*

You may assign distillate compliance units to the gasoline pool at any time until the end of the relevant trading period. Such assignments must be

recorded in your compliance unit account book within 15 days after the end of the month in which the assignment was done.

For example, if you assign distillate compliance units at the end of the trading period (that is, March 31), then the record of that assigning must be made in your compliance unit account book no later than April 15. The report to Environment Canada made under section 30 of the Regulations is also due no later than April 15.

*H.18: Are there any limitations on the number of distillate compliance units that I can assign to meet the renewable fuel requirement for gasoline?*

There is no numerical limit; however, you may only assign distillate compliance units that you own and that were created during the compliance period (or carried forward or carried back into the compliance period). Any distillate compliance unit that you assign in this manner cannot be used to comply with the renewable fuel requirement for diesel fuel and heating distillate oil. You must ensure that both the renewable fuel requirement for gasoline and the renewable fuel requirement for diesel fuel and heating distillate oil (if in force) are met.

*H.19: Can I meet the 5% renewable fuel requirement for gasoline using only distillate compliance units?*

Yes, you can. However, each distillate compliance unit can only be used in one way, either to meet the renewable fuel requirement for gasoline <u>or</u> the renewable fuel requirement for diesel fuel and heating distillate oil (if in force), but not both.

*<u>REVISED H.20</u>: Can I use a distillate compliance unit to meet both the 5% renewable fuel requirement for gasoline and the 2% renewable fuel requirement for diesel fuel and heating distillate oil?*

No. A distillate compliance unit can only be used to meet one of those requirements – not both.

*<u>REVISED H.21: Can I report the parameters for the calculations in section 8 in cubic metres?</u>*

<u>No, you cannot. The parameters in section 8 represent compliance units, which represent litres of renewable fuel, therefore subsection 4(7) does not apply and so the parameters in section 8 must be in litres. Refer to section 7(1).</u>

***Section 9 (and Schedule 1) – Registration as a Primary Supplier***

*I.1: Why is registration information required by the Environment Canada?*

Registration information is collected for a primary supplier under section 9 of the Regulations, for an elective participant under section 11, and for a renewable fuels producer or importer under section 34. This information is to assist Environment Canada in the administration of the Regulations and in identifying and understanding the regulated community and the various facilities of the industrial sectors covered by these Regulations. The information collected under registration reports assists Environment Canada in understanding your operations and the operations of other regulated parties, and thus enables a more effective and efficient administration of the Regulations. Other federal fuel Regulations have similar registration information requirements.

*I.2: Schedule 2 requires a description of the primary use of produced, blended and imported products. Why is this required and what is it intended to cover?*

This information will help identify instances where a product might be used in such a way that it would not be a fuel: for example, as feedstock to a chemical plant. Such blended product is not intended to create compliance units. The description should identify the primary use as “for fuel”, or some other specified use.

*I.3: When do I have to submit the registration report?*

All registration reports are one-time reports (with updates when the submitted information changes). The registration report for primary suppliers must be submitted at least one day prior to the primary supplier producing and importing its $400^{th}$ $m^3$ of gasoline, or its $400^{th}$ $m^3$ of diesel fuel and heating distillate oil, during any 12-month period in a compliance period.

For existing primary suppliers, this effectively means on or before December 14, 2010, as the compliance period starts December 15, 2010. For new large-volume primary suppliers, this effectively means at least one day before commencing production or import operations.

*NEW I.3.1: As part of the registration report, are volumes for 2010 required to be reported?*

Volumes from the calendar year before you registered are required to be provided in the registration report. If you register in 2011, then 2010

volumes are required. If you register in 2010, then 2009 volumes are required.

*NEW I.3.2: If I am importing more than 400 $m^3$ of diesel fuel for use exclusively in the Arctic and then one day start importing fuel for use in southern Canada, when do I need to register?*

Under subsection 2(3), when you are only importing fuel for use in the Arctic you do not have to register, so long as this fuel use purpose is documented fro the volumes. When you start importing fuel for use in southern Canada, you would be required to register one day before you import fuel for use in that region.

*REVISED I.4: What happens if the information I submitted in my registration report changes?*

If the registration information changes, other than the information in items 1(*b*) and (*c*) of Schedule 1 of the Regulations (the contact information), you must submit a notice to Environment Canada that updates the changed information. This must be done no later than five days after the change. This requirement and the timing for the notice are the same as in other federal fuel Regulations. If you do not submit the updated data by this time, you would be in contravention of the Regulations.

*REVISED I.5: Why don't I have to submit updates regarding information on my authorized official or contact person?*

Because contact information can change frequently, you do not have to submit an update of this information. Such information must be submitted to Environment Canada as part of the annual reports.

As of August 28, 2011, information regarding the company name and address (item 1(*a*)) is required to be updated. This is to facilitate Environment Canada tracking the company's information in its database.

*I.6: What happens if I do not, or cannot, provide the update within five days of the change?*

Updated data must be sent to Environment Canada no later than five days after the change. If you do not submit the updated data by this time, you would be in contravention of the Regulations.

*I.7: What if I don't know how much of a special-use fuel I produced or imported last year?*

Item 4 of Schedule 1 of the Regulations requires that you provide information on the previous year's volumes of the various special-use fuels that you produced or imported for sale or delivery for those uses – if known. It is generally expected that much of this information would be routinely recorded and well known; however, there may be some instances where a primary supplier would not know this information. In such a case, you are not obligated to provide such information.

*I.8: What information is required when I register a new production facility?*

You must provide the information listed in Schedule 1. If, because the facility has just begun operations, there is no volumetric data for the previous year, then you would enter a zero for that information.

*REVISED I.9: As a primary supplier, do I have to submit all of the information in Schedule 2 of the Regulations as well? If so, why?*

Yes, under item 5 of Schedule 1, all the information listed in Schedule 2 must be provided, except for the contact information in item 1 of Schedule 2 (which is already covered under items 1(*b*) and (*c*) of Schedule 1). The information in Schedule 2 is required to assist Environment Canada in administering the Regulations and in understanding your operations as they pertain to the addition of renewable fuels to your petroleum fuels, or any other aspect of your operations that might create compliance units.

*I.10: I do not currently import into a province. Can I register for imports of gasoline into that province, in case I want to import in the future?*

Yes, you may, since such a report would meet the condition that it be submitted before the $400^{th}$ $m^3$ of gasoline was imported.

*I.11: If I only produce or import diesel fuel or heating distillate oil, do I still have to register prior to the first distillate compliance period? If yes, why?*

Yes, you do. The registration information will provide Environment Canada with information on persons who will be regulatees once the renewable fuel requirement for diesel fuel and heating distillate oil comes into force. Furthermore, the information listed in Schedule 2 is required to support administration of provisions regarding creation and trading of distillate compliance units during that time.

*I.12: I am already an elective participant. I will soon start to import gasoline, diesel fuel or heating distillate oil and thereby become a primary supplier. Do I have to register as a primary supplier under section 9 of the Regulations?*

Yes, you do. Once you start to import, you are a primary supplier and no longer an elective participant. All the information in Schedule 1 of the Regulations must be submitted to Environment Canada, pursuant to section 9 at least one day before you produce or import your $400^{th}$ $m^3$ of gasoline, or your $400^{th}$ $m^3$ of diesel fuel and heating distillate oil. If the information that you previously submitted under Schedule 2 has not changed, you need not re-submit that portion of the required registration information.

*I.13: I have a terminal at which batches of gasoline, diesel fuel or heating distillate oil may be mixed together. Do I need to register my terminal as production facility?*

Generally, no. The mixing of gasolines or diesel fuels is not considered production. However, if you are producing a fuel that meets the regulatory definition of "gasoline", "diesel fuel" or "heating distillate oil" by combining other fuels or fuel components that do not meet those definitions, then the facility would be a production facility.

If you wish to create compliance units at this terminal by blending petroleum fuels with renewable fuels, you would have to provide registration information on this facility under section 11 of the Regulations.

*I.14: I have a terminal at which batches of naphtha are mixed to make gasoline. Do I need to register my terminal as production facility?*

Generally, yes, you do, because you are producing gasoline from substances that are not gasoline.

However, if all the batches of naphtha meet the definition of "gasoline", then their volumes should be included in the pools of the refineries that produced the naphtha. In that case, you would be considered as simply mixing "gasolines", and you would not be required to register your terminal as a production facility.

*NEW I.14.1: If I only blend heavy fuel oil with lighter products to make marine diesel fuel for use in marine diesel engines, am I a primary supplier?*

Yes, you are a primary supplier, but only if your "marine diesel fuel" meets the definition of "diesel fuel" in subsection 1(1) of the Regulations.

*I.15: Will Environment Canada issue me a registration or identification number after I submit the information required in Schedule 1 of the Regulations?*

Environment Canada does not plan to issue such numbers under the *Renewable Fuels Regulations*.

*I.16: Is there a special format for submitting registration information?*

Under section 27 of the Regulations, reports must be in the form and format specified by Environment Canada. If an electronic form and format are specified, they must be used, unless there are circumstances beyond your control that make it impractical for you to do so. (This would be assessed on a case-by-case basis). If no electronic form and format have been specified, the report must be sent on paper

Environment Canada will notify participants if and when a form and format are specified.

## PART 2 – COMPLIANCE UNIT TRADING SYSTEM

### *Sections 10 and 11 (and Schedule 2) – Participants in the Trading System*

*J.1: Who is eligible to elect into the trading system and become participants?*

Under section 11 of the Regulations, a person who registers with Environment Canada and does one or more of the following activities may become an elective participant:

- blend renewable fuel with liquid petroleum fuel,
- produce liquid petroleum fuel, other than gasoline, diesel fuel or heating distillate oil, by using biocrude as a feedstock,
- import liquid petroleum fuel, other than gasoline, diesel fuel or heating distillate oil, with renewable fuel content, or
- sell neat renewable fuel to a neat renewable fuel consumer, or use the neat renewable fuel themselves.

A primary supplier is not an elective participant; they are automatically a participant in the trading system. The exception to this is small-volume (less than 400 $m^3$ per year) primary suppliers who are exempt under section 2 of the Regulations; however they may opt into the Regulations under section 3.

*J.2: What do I need to do in order to participate in the trading system?*

You must meet the conditions of an elective participant as set out in section 11 of the Regulations and submit to Environment Canada the information specified in registration report in Schedule 2 of the Regulations, at least one day before you first create a compliance unit.

*J.3: Do I have to make an election every year?*

No. You need to make an election only once.

*J.4: What will I be required to do if I elect to be an elective participant?*

You will be required to comply with the Regulations in full, including all recordkeeping, reporting and audit requirements. Elective participants do not have to meet the requirements for renewable fuel content described in Part 1.

*J.5: I want to create compliance units but do not want to have to meet all the requirements placed on a participant. How do I create compliance units without becoming a participant?*

You cannot. Only a participant may create compliance units.

*J.6: I blend very small volumes of renewable fuel. Am I required to participate in the trading system?*

No. There is no obligation to register as an elective participant and participate in the trading system. However, if you are not a participant, you cannot create or trade compliance units.

Nevertheless, if you wish to participate, you may opt into the trading system, no matter how small the volume of renewable fuel that you are blending.

*J.7: If I produce or import gasoline, diesel fuel or heating distillate oil, can I elect to participate in the trading system?*

No. As a primary supplier, you are automatically a participant in the trading system. The exception is small-volume primary suppliers (less than 400 $m^3$ per year) who are exempt under section 2 of the Regulations but may opt into the Regulations under section 3.

*J.8: If I produce or import only heavy fuel oil, jet fuel or fuel other than gasoline, diesel and heating distillate oil, can I elect to participate in the trading system?*

Yes, you can if you do one or more of the following activities:

- blend renewable fuel with your petroleum fuel,
- produce petroleum fuel by using biocrude as a feedstock,
- import petroleum fuel with renewable fuel content, or

- sell neat renewable fuel to a neat renewable fuel consumer, or use the neat renewable fuel yourself.

*J.9: When do I have to submit the registration report?*

You must submit your one-time registration report at least one day before you create a compliance unit.

*REVISED J.10: What happens if the information I submitted in my registration report changes?*

If the registration information changes, other than the information in items 1(*b*) and (*c*) of Schedule 2 of the Regulations (the contact information), you must submit a notice to Environment Canada that updates the changed information. This must be done no later than five days after the change. This requirement and the timing for the notice are the same as in other federal fuel Regulations. If you do not submit the updated data by this time, you would be in contravention of the Regulations.

As of August 28, 2011, information regarding the company name and address (item 1(a)) is required to be updated. This is to facilitate Environment Canada tracking the company's information in its database.

*J.11: What information is required when I register a new blending facility?*

You must provide the information listed in Schedule 2. If, because the facility has just begun operations, there is no volumetric data for the previous year, then you would enter a zero for that information.

*J.12: What if I do not know some of the information that is asked for in the registration report in Schedule 2 of the Regulations?*

In Schedule 2, some of the information is qualified by the phrase "if known". For such information, if you do not know it, you are not obliged to report it. If this phrase is not present, you must submit the information to Environment Canada.

The information collected under this and other registration reports is intended to assist Environment Canada in understanding your operations and the operations of other regulated parties, and assist in a more effective and efficient administration of the Regulations.

*J.13: Why is the trading system limited to only those who undertake one of the specified activities? Why cannot anyone participate in the trading system?*

Primary suppliers are obligated to meet the requirements for renewable fuel in their gasoline and distillate pools (the volumes of gasoline, diesel fuel and heating distillate oil that they produce and import). The sole mechanism for demonstrating compliance with these requirements is the ownership of compliance units. It is therefore imperative that compliance units are readily accessible to primary suppliers, which is facilitated through the various limitations on the trading system, such as this limitation on participation. These limitations are also intended to minimize the possibility of some parties potentially speculating on the price of compliance units.

*J.14: If I wish to withdraw from the trading system, what must I do?*

Under subsection 11(3) of the Regulations, an elective participant may withdraw from the trading system at any time. Such a person must send a notice advising Environment Canada of the date of their withdrawal, provide any outstanding annual reports and the auditor's reports and cancel any remaining compliance units that they own as of the date of their withdrawal.

A small-volume primary supplier (less than 400 $m^3$ per year) who has opted into the Regulations may rescind their opt-in by fulfilling similar conditions, pursuant to subsection 3(3).

*J.15: Does an elective participant need to make records and submit annual reports if they do not create any compliance units in a given compliance period and have not opted out of the trading system?*

Generally, no. Records by an elective participant are only required for the creation of compliance units, if any, and reports are only required for compliance periods in which compliance units were created. Nevertheless, an elective participant in such a situation might consider informing Environment Canada of their situation.

An elective participant in this situation may still have to keep records or make reports under other provisions of the Regulations (for example, if they imported or produced renewable fuel).

### *Sections 12 to 16 – Creation of Compliance Units*

*K.1: What are the various ways by which compliance units may be created? When are compliance units created?*

The table below summarizes the ways that compliance units may be created and when they are created:

| Action | Section | Type of compliance units created | Number of compliance units (CU) created * | When are the compliance units created | Who is the creator of the compliance units | Confirmation of the creation of compliance units |
|---|---|---|---|---|---|---|
| Blending renewable fuel with gasoline or another liquid petroleum fuel (other than diesel fuel or heating distillate oil) | 13(1) | Gasoline | 1 CU for each litre of renewable fuel blended | Upon blending | The owner of the blended fuel | Records must be made under sections 31, 32(1) and, if high-renewable-content fuel, 32(3) |
| Blending renewable fuel with diesel fuel or heating distillate oil | 13(2) | Distillate | 1 CU for each litre of renewable fuel blended | Upon blending | The owner of the blended fuel | Records must be made under sections 31, 32(1) and, if high-renewable-content fuel, 32(3) |
| Importing gasoline or another liquid petroleum fuel (other than diesel fuel or heating distillate oil) with renewable fuel content | 14(1) | Gasoline | 1 CU for each litre of renewable fuel contained in the petroleum fuel | Upon importation | The importer of the fuel | Records must be made under sections 31, 32(2) and, if high-renewable-content fuel, 32(3) |
| Importing diesel fuel or heating distillate oil with a renewable fuel content | 14(2) | Distillate | 1 CU for each litre of renewable fuel contained in the petroleum fuel | Upon importation | The importer of the fuel | Records must be made under sections 31, 32(2) and, if high-renewable-content fuel, 32(3) |
| Using triglyceride-derived biocrude as a feedstock to produce a liquid petroleum fuel in Canada | 15(1) | Distillate | 17 CU for each 20 litres of biocrude used | Upon use of biocrude | The user of the biocrude | Records must be created under sections 31 and 32(4) |
| Using any biocrude, other than triglyceride-derived, as a feedstock to produce a liquid petroleum fuel in Canada | 15(2) | Gasoline and Distillate | 1 gasoline CU and 1 distillate CU for each 5 litres of biocrude used | Upon use of biocrude | The user of the biocrude | Records must be made under sections 31 and 32(4) |
| Selling neat renewable fuel to a neat renewable fuel consumer for use in a combustion device other than a diesel engine or domestic-type burner | 16(1)(a) | Gasoline | 1 CU for each litre of neat renewable fuel sold | Upon sale of neat renewable fuel to the neat renewable fuel consumer | The seller of neat renewable fuel to the neat renewable fuel consumer | Records made under sections 31 and 32(5) |

| | | | | | | |
|---|---|---|---|---|---|---|
| Selling neat renewable fuel to a neat renewable fuel consumer for use a diesel engine or domestic-type burner | 16(2)(a) | Distillate | 1 CU for each litre of neat renewable fuel sold | Upon sale of neat renewable fuel to the neat renewable fuel consumer | The seller of neat renewable fuel to the neat renewable fuel consumer | Records made under sections 31 and 32(5) |
| Using neat renewable fuel in a combustion device other than a diesel engine or domestic-type burner by the participant who produced or imported it | 16(1)(b) | Gasoline | 1 CU for each litre of neat renewable fuel used | Upon use of neat renewable fuel | The user of the neat renewable fuel | Records made under sections 31 and 32(5) |
| Using neat renewable fuel in a diesel engine or domestic-type burner by the participant who produced or imported it | 16(2)(b) | Distillate | 1 CU for each litre of neat renewable fuel used | Upon use of neat renewable fuel | The user of the neat renewable fuel | Records made under sections 31 and 32(5) |

* If there is more than one owner of the batch resulting from any of the actions that could lead to the creation of compliance units, then no compliance units are created unless at the time of creation there is a written agreement between all owners identifying the single creator of the compliance units.

*NEW K.1.1: Can I create compliance units by blending renewable fuel into the fuels excluded under subsection 6(4) of the Regulations (e.g., fuel used in Newfoundland or used in aircraft)?*

Yes, you may. The exclusions under subsection 6(4) only relate to the calculation of a primary supplier's pool; the exclusions themselves do not place limits on the type or use of fuel to which renewable fuel may be blended into, however the type of compliance unit created does depend on the petroleum fuel into which the renewable fuel is blended (refer to section 13).

*K.2: How are compliance units used under the Regulations?*

Compliance units are used by producers and importers of gasoline, diesel fuel and heating distillate oil to demonstrate their compliance with the renewable fuel requirements of the Regulations. A compliance unit may only be used once and only to demonstrate compliance in respect of a compliance period during which it was created, or carried forward or carried back into.

*K.3: Does Environment Canada issue the compliance units?*

No. Compliance units are created by participants in the trading system.

*K.4: I am a participant. How exactly do I "create" a compliance unit? Once it is created, where does it exist and how do I identify it?*

You create a compliance unit by fulfilling the requirements of sections 12 to 17 of the Regulations and making the records required under sections 31 and 32. Once created, the compliance unit exists as the record you have made, pursuant to section 32, and in your compliance unit account book, pursuant to section 31. The entry in the account book must be supported by other records required under these Regulations and by supporting documentation.

*K.5: I blend renewable fuel with petroleum fuel – how do I get compliance units?*

Provided you are a participant, you may create compliance units upon blending (refer to sections 13 and 17 of the Regulations).

*K.6: If I blend renewable fuel with petroleum fuels, can I buy compliance units?*

Unless you are also a primary supplier (a producer or importer of gasoline, diesel fuel or heating distillate oil), you cannot acquire compliance units from others. You may create compliance units yourself and sell them to primary suppliers, if you have elected to participate in the trading system.

*K.7: I am not involved in the fuels business, but would like to buy compliance units – how do I do this?*

You cannot acquire any compliance units.

*K.8: If I blend renewable fuel into a liquid petroleum fuel but have not submitted a registration report and am not a primary supplier, can I create any compliance units?*

No, you cannot. Only elective participants and primary suppliers may create compliance units. You must submit a registration report under section 11 of the Regulations to become an elective participant prior to creating compliance units.

*<u>NEW K.8.1: If I am not a primary supplier, do I have to register in order to create compliance units?</u>*

<u>If you are not a primary supplier but wish to create compliance units, you may elect to participate in the trading system by registering under section 11 of the Regulations. You must meet the criteria specified in that paragraph 11(1)(*a*) in order to register.</u>

*K.9: Will there be government validation or clearinghouse for compliance units as a way to protect obligated parties against involuntary non-compliance from acquiring non-valid compliance units?*

No, Environment Canada will not validate compliance units. The Regulations have requirements for third-party audits and records and reports will be subject to inspections by Environment Canada's enforcement officers.

*K.10: Why isn't a compliance unit created upon production or import of renewable fuel, in the same way that a RIN is created under the U.S. Renewable Fuel Standard? Why does the regulation not include provisions for identification numbers for compliance units, like the U.S. EPA has for RINs?*

The creation of RINs (compliance units) under the U.S. system is done by producers and importers of renewable fuel, for each batch of renewable fuel produced or imported. That approach requires extensive tracking of individual batches and RINs from cradle to grave and links each RIN to a particular batch of renewable fuel.

The Canadian regulation shifts the creation of compliance units "downstream" to the point of blending (and of import of blended liquid petroleum fuels). The persons doing these activities are often the obligated party under these Regulations. By leaving out the front end of the distribution chain of the renewable fuels, the approach is simplified and facilitates acquisition of compliance units by the obligated party. In addition, this approach does not require identification numbers to link compliance units to individual batches of renewable fuel, nor tracking of those batches throughout the distribution chain.

*K.11: In the case of multiple parties owning or importing a batch that is blended, are there any requirements on the agreement between them identifying the creator of the compliance unit? What if the parties cannot reach an agreement?*

Such an agreement must be in writing, signed by all parties, and must identify a single party as being designated to be the creator of the compliance units. At the discretion of the parties involved (and outside of the scope of these Regulations), the agreement may or may not cover other issues, such as any subsequent distribution of the compliance units, management fees, future obligations, etc. If parties cannot reach an agreement, no compliance units are created.

*K.12: How many owners can the blended batch have? How many owners can the pre-blended batch have?*

The Regulations do not limit the number of owners a batch may have (either the blended batch or the pre-blended batch). The limitation under subsection 12(2) of the Regulations is that if the owners wish to create any compliance units from blended batch, they must have an agreement designating one of the owners to be the sole creator and owner of the compliance units.

*K.13: I own a terminal where products are blended with renewable fuel. Do I own all the compliance units created at my terminal?*

Not necessarily. Ownership of compliance units created from blending renewable fuel with liquid petroleum fuel is based on who owns the blended fuel (that is, the fuel that is created from the blending of the renewable fuel and the liquid petroleum fuel) upon its blending.

*K.14: At a terminal, I blend renewable fuel that I own into liquid petroleum fuel that I own. The blending takes place in the dispensing pipe that fills a tanker truck. Who creates the compliance unit, me or the owner of the fuel when it is in the truck?*

The person who creates the compliance unit is the person who owns the blended fuel at the moment of its blending, even if the blending is in a dispensing pipe and only seconds before the ownership of the fuel is transferred.

*NEW K.14.1: During a blending process, I use a monthly gauge balance method to measure my volume. When must the record of the volume be made? When is the compliance unit created?*

Section 37 states that "*records must be made as soon as feasible but no later than 15 days after the information to be recorded becomes available*." In this case, the information to be recorded would not be available until the end of the month. So, the record would have to be made as soon as feasible after the end of the month but no later than 15 days after the end of the month.

*NEW K.14.2: At the end of blending season, I use diesel fuel to flush out my storage tank containing renewable fuel. Is this considered blending? Do I create distillate compliance units?*

Yes, this would be considered blending of a renewable fuel with a petroleum fuel, but there is no obligation to create a compliance unit. You must create records under sections 31 and 32 in order for you to create compliance units. Subsection 13(4) states that "*Without that recording, the*

*compliance unit is deemed never to have been created*." If you do not wish to create compliance units from this blending, no record need be made and no volumes need be measured. However, if you do wish to create compliance units, records and measurements of volume must be made according to the provisions of the Regulations (refer to sections 4 and 35 and Schedule 8). Note that in order to create compliance units, the renewable fuel in the bottom of the tank must also fully comply with the definition of "renewable fuel" in subsection 1(1) of the Regulations.

*NEW K.14.3: At the beginning of the blending session, I add a new stock of renewable fuel to my storage tank that contains last session's leftover fuel (the "heel"). Do I create compliance units?*

If the heel (that is, residual liquid in the tank) meets the definition of "gasoline", "diesel fuel" or "heating distillate oil", then you may create the applicable compliance unit, provided that the measurement method for this operation meets the requirements of section 4 and has been reported accordingly under section 35 and Schedule 8. You must also make sure that if you create these compliance units all applicable records are made under sections 31 and 32. Note that if the heel does not meet one of those definitions, no compliance units can be created from this blending operation.

*K.15: What does it mean that the creation of a compliance unit is confirmed on recording of the prescribed information? What happens if I do not record the information until sometime after the time of creation? What if I do not have all the required information?*

The creation of compliance units occurs at the time of blending, importation, use of biocrude or the time of sale or use of the neat renewable fuel. However, this creation is not *confirmed* (or realized, validated or finalized) until the recording of the required information. If the recording were never made, then the associated compliance unit would be deemed to never have been created.

The issue of the timing of the recording is significant. For example, if a batch were blended on December 28, 2014, compliance units would be created on December 28, 2014, even if the records were not made until January 13, 2015. In other words, those compliance units could only be used in respect of the 2014 compliance period, not for the 2015 compliance period (unless they were subsequently carried forward pursuant to sections 21, 22 or 23 of the Regulations).

*K.16: What is the status of compliance units that I have created but not yet confirmed pursuant to sections 13 to 16 of the Regulations? Do they actually exist? Do I own them? Can I trade them?*

The creation of compliance units must be *confirmed* (that is, crystallized, perfected, validated or finalized) by the recording of the required information under sections 31 and 32. If the recording is never made, then the associated compliance unit are considered to never have been created. As such, compliance units created but not yet accurately confirmed cannot be owned or traded.

*K.17: I am a trading system participant. I carried out an action listed in sections 13 to 16 of the Regulations and made records regarding this. Four months later, I discover that I made an error and that the records I made do not reflect the true number of compliance units (either more or less) that I should have created for that action. How do I correct this? What is the status of the compliance units?*

Sections 13 to 16 stipulate that confirmation of the creation of a compliance unit occurs on the making of a record of its creation, referred to in section 31 which sets out the information that must be recorded in the compliance unit account book, and a record of certain other information set out in section 32. Subsection 31(3) stipulates that the record in the compliance unit account book must be made within 15 days after the end of the month in question. If, after duly recording this information, you discover an error in the information as recorded, you must correct it as soon as possible. The correction is required in order to ensure that the confirmation accurately records the compliance unit that was actually created. As stipulated in subsections 13(4), 14(4), 15(4) and 16(4), without that recording of the actual information required, the compliance unit is considered to have never been created.

Finally, if the corrected entry is made more than 15 days after the end of the month in question, you would be in contravention of subsection 31(3).

*K.18: Where did the ratios for the two types of biocrude come from? How were they developed?*

The ratios for the two types of biocrude were developed in consultation with the Industry Technical Advisory Group. The ratios set out in the Regulations were generally agreed upon by that group based on information that was available at the time. If more information becomes available in the future on the use and yields of biocrude, these ratios might be adjusted through amendments to the Regulations.

*K.19: Why does triglyceride-derived biocrude create more distillate compliance units than other types of biocrude?*

Because of the nature of triglyceride-derived biocrude and refinery processes, current information suggests that most of this type of biocrude will end up in distillate products. This biocrude also has fewer yield losses. Consequently, the use of this type of biocrude creates 17 distillate compliance units for each 20 litres of biocrude used, but does not create any gasoline compliance units. If new data become available in the future on the use and yields of biocrude, this ratio might be adjusted through amendments to the Regulations.

*K.20: Why are gasoline compliance units created through renewable content in fuels other than gasoline?*

The Government of Canada is committed to expanding the production and use of all renewable fuels. While it is expected that gasoline compliance units (which can only be used to meet the renewable fuel requirement for gasoline) will be created mostly from the addition of ethanol into gasoline, the Regulations also provide the flexibility to create gasoline compliance units by the addition of any renewable fuel to liquid petroleum fuels other than diesel fuel and heating distillate oil (which would create distillate compliance units).

*NEW K.20.1: Is there any maximum limit on the number of distillate compliance units that I can assign to meet the gasoline requirements?*

No, but you cannot assign more distillate compliance units than you own.

*K.21: Can I create compliance units from the use of neat renewable fuel in industrial boilers and domestic-type oil burners?*

Yes, you can, provided you meet the conditions of section 16. The type of compliance unit created depends on the type of combustion device. Pursuant to the provisions of the Regulations:

- If the neat renewable fuel is used in a domestic-type oil burner, one distillate compliance unit may be created for each litre of neat renewable fuel so used.
- If the neat renewable fuel is used in an industrial boiler, one gasoline compliance unit may be created for each litre of neat renewable fuel so used.

Note that under the Regulations, “neat renewable fuel” is biodiesel, or another renewable fuel that is

- produced at a facility that uses only renewable fuel feedstock for the production of fuel;
- suitable for use in a combustion device; and
- chemically indistinguishable from gasoline, diesel fuel, heating distillate oil, or another liquid petroleum fuel that is suitable for use in a combustion device.

Also refer to question H.2.

*K.22: Can I create compliance units from the use of neat renewable fuel in engines?*

Yes, you can, provided you meet the conditions of section 16. The type of compliance unit created depends on the type of engine. Pursuant to the provisions of the Regulations:

- If the neat renewable fuel is used in a diesel engine, one distillate compliance unit may be created for each litre of neat renewable fuel so used.
- If the neat renewable fuel is used in a gasoline engine, one gasoline compliance unit may be created for each litre of neat renewable fuel so used.

Also refer to question H.2.

*NEW K.22.1: Do I get compliance units from using a fuel with a renewable content or neat renewable fuel in my fleet of vehicles?*

In the case of using a fuel with renewable content, compliance units may be created by the owner of the blended fuel upon its blending, or by the importer, upon its import (refer to section 13 of the Regulations).

In the case of using a neat renewable fuel, the participant who sells the neat renewable fuel to a neat renewable fuel consumer may create compliance units according to paragraphs 16(1)(*a*) and 16(2)(*a*). A participant who uses the neat renewable fuel himself may only create compliance units from using neat renewable fuel that they produced or imported (see paragraphs 16(1)(*b*) and 16(2)(*b*)).

*K.23: I purchased a batch of ethanol-blended gasoline with 10% ethanol content (e.g., E10). I then blended more ethanol into it so the final batch has 85% ethanol content. How many compliance units are created? How do I document this?*

You would create 1 gasoline compliance unit for each litre of ethanol that you blended into the batch of E10. You would not create any compliance units from the ethanol that was already in the batch of E10. To create the

gasoline compliance units for the blending that you did, you would have to make the required records under subsections 32(1) and 32(3) of the Regulations and in the compliance unit account book under section 31. Note that you must be the owner of the final batch upon its blending in order to create the compliance units.

*K.24: What is high-renewable-content fuel?*

Refer to question B.39.

*REVISED K.25: What records and documentation are required in order to create compliance units in respect of the sale or use of high-renewable-content fuel and neat renewable fuel?*

You must have records establishing that either:

Option 1 –

- the fuel was sold in Canada for use as fuel in a combustion device and was identified as being high-renewable-content fuel or neat fuel in a cautionary statement that identifies the renewable fuel type, and in the case of high-renewable-content fuel its minimum renewable fuel content, and that states that it may not be suitable for some engines and that the owner's manual ought to be consulted; and
- the statement was on the fuel dispensing device in a location and manner to be easily read by a person while dispensing the fuel, or in a document provided, prior to the sale or transfer of the fuel, to the person who will use it as fuel in a combustion device;

Option 2 –

- you produced or imported the fuel and then used it in Canada as fuel in a combustion device. In addition, you must have records establishing the type of combustion device and the address of each facility to which the high-renewable-content fuel or neat renewable fuel was delivered to be dispensed into a fuel tank of a combustion device and the date of that delivery; or

Option 3 –

- you produced or imported high-renewable-content fuel (e.g., B50), and it was subsequently blended at a blending facility to result in liquid petroleum fuel that was not high-renewable-content fuel (e.g., B5 or lower blends).

*K.26: Why is the cautionary statement as set out in the above answer required?*

This more stringent level of proof is required because the blend levels are greater than are currently accepted in the marketplace and for which vehicle manufacturers warranty engines.

*NEW K.26.1: Does the cautionary statement for high-renewable-content fuels have to be in both official languages even if the document is a contract between the trading system participant and the fuel users?*

Yes, it does. Refer to subparagraph 32(3)(*a*)(i).

*NEW K.26.2: If I sell a fuel with a high content of a renewable fuel which is indistinguishable from petroleum fuel, do I have to provide a cautionary statement to the consumer of that fuel?*

No, you do not. Such fuel is specifically excluded from the regulatory definition of "high-renewable-content fuel". Therefore, subsection 32(3) does not apply to that fuel and so no cautionary statement is required.

*K.27: Why are records required on the type of combustion device and facilities to which the high-renewable-content fuel was delivered?*

The type of compliance unit created depends on the type of combustion device. These records are also required because of the greater potential for high-level blends to be re-blended and potentially used to create a second set of compliance units based on the same volume of renewable fuel.

*K.28: How do I know how much renewable fuel is in gasoline, diesel fuel or heating oil that I import?*

To create any compliance units from your imported fuel, you must make or have a record that quantifies the volume of renewable fuel in the imported fuel, and contains all the information required by subsection 32(2) of the Regulations. If the imported fuel is high-renewable-content fuel, you must have a record that contains all the information required by subsection 32(3) as well. The determination of the volume must be done in accordance with section 4.

*NEW K.28.1: If I import a batch of "E10" gasoline, what volume do I include in my pool? How many compliance units do I create?*

You must include the entire volume of the batch of E10 gasoline in your pool; however, under subsection 6(5) of the Regulations, you may subtract from your pool the actual volume of renewable fuel contained in the batch if you have a record that establishes that that volume is renewable fuel.

Under section 14 of the Regulations, you may create one gasoline compliance unit for each litre of renewable fuel contained in the imported batch of E10 gasoline. Under section 32(2) of the Regulations, you must also make a record of the volume of renewable fuel contained in that batch.

*K.29: Could I import a cargo of "E85", add gasoline to dilute the mixture to less than 10% by volume and sell the resulting product as "E10" on the local market, and create the applicable amount of gasoline compliance units for the "E85"?*

No, you could not. Compliance units for such high-renewable-content fuels are only created where there is a record made under subsection 32(3) of the Regulations that evidences the actual combustion of the E85 fuel or sale to its final consumer. Refer to subsections 13(3), 14(3) and 32(3).

*K.30: Can I use my surplus compliance units to create offsets under a federal or provincial greenhouse gas offset program?*

This would be determined by the rules of the offset program. You would need the federal or provincial authority responsible for the offset program to answer this question for you.

### *Section 17 – Limitations on Creation of Compliance Units*

*L.1: Where do the limits on renewable fuel content come from?*

The Regulations set a maximum level of renewable content in petroleum fuels for creating compliance units. The maximum level is 80% for all non-gasoline fuels, based on the U.S. level for diesel fuel in respect of incentives. For gasoline, the maximum level is 85% to account for the use of E85 fuel.

*L.2: Why are the limits necessary?*

The maximum limits establish boundaries between "renewable fuel" and "liquid petroleum fuel" with high renewable content. They have been set to address the potential of a person blending a small volume of gasoline into a renewable fuel and being able to create significant quantities of compliance units and manipulate the market for compliance units. The maximum limits create a "buffer zone" between what is renewable fuel and what is liquid petroleum fuel with renewable fuel in it.

Under the definition of renewable fuel in the *Renewable Fuels Regulations*, a renewable fuel may contain some non-renewable substances. For example, in the case of ethanol, this may be up to 4.76% denaturant plus another 1.0% additives and other non-renewable substances and 1.0% water. Therefore, under the Regulations, E94 (gasoline with 94% ethanol content) would be a renewable fuel, whereas E92 would not be a renewable fuel. To remove any ambiguity and any possibility of double creation of compliance units when blending at these high levels, maximum limits have been established (as noted above) for the creation of compliance units from these high-renewable-content fuels.

These maximum blend limits for creation of compliance units also apply to liquid petroleum fuels with renewable content that is chemically indistinguishable from the liquid petroleum fuel. Even though such fuels are not encompassed in the definition of "high-renewable-content fuel", the limits and limitations regarding creation of compliance units still apply in this regard.

*REVISED L.3: How many compliance units do I create if I blend or import a batch of liquid petroleum fuel that exceeds these limits on renewable content? Do I create compliance units up to the limit?*

You do not create any compliance units for the blending or importation of such a batch of fuel. This limitation also covers the situation when the renewable content is from a renewable fuel that is indistinguishable from liquid petroleum fuel.

*L.4: I purchased a batch of ethanol-blended gasoline with 10% ethanol content (e.g., E10). I then blended more ethanol into it so the final batch has 86% ethanol content. How many compliance units do I create? What happens to compliance units that were created in respect of the original 10% ethanol content?*

You do not create any compliance units, because the blended batch exceeds the maximum limit of 85%, set out in paragraph 17(1)(*a*) of the Regulations. The person who blended the original batch of E10 retains the gasoline compliance units that they created, because they were created in respect of a different batch.

*L.5: Paragraph 17(1)(c) of the Regulations stipulates that no compliance units are created "in respect of a batch of renewable fuel that results from blending". What does that wording mean?*

This provision is intended to prevent potential creation of a second set of compliance units based on the same volume of renewable fuel in the situation where a batch of high-renewable-content fuel, E85 for example,

is blended with enough renewable fuel that the resulting batch meets the definition of renewable fuel (which allows for small amounts of non-renewable material). Such a resulting batch of renewable fuel could then be blended again with petroleum fuel to create a second quantity of compliance units. This provision, in conjunction with the recordkeeping and reporting requirements of the Regulations, is intended to prevent that possibility.

*L.6: How were the requirements pertaining to use of municipal solid waste as a renewable fuel feedstock developed?*

The limitations on the use of municipal solid waste as a renewable fuel feedstock were developed in consultation with the Canadian Renewable Fuels Association, as a subgroup of the Industry Technical Advisory Group during consultations in the spring of 2009. Following publication of the proposed Regulations, paragraph 17(2)(b) was adjusted to address comments received. That provision requires records demonstrating that the municipal solid waste was sorted and pre-processed at a facility that is designed and operates, in compliance with its operating permit, to remove all but trace quantities of specified hazardous wastes.

*L.7: Why must municipal solid waste contain at least 50% biogenic material in order to be a renewable fuel feedstock?*

Municipal solid waste can contain large quantities of non-renewable material, particularly plastics. The requirement for a content of at least 50% biogenic carbon is intended to limit the inclusion of plastics and other such non-biogenic material.

If municipal solid waste meets the requirements of subsection 17(2) of the Regulations, then each litre of renewable fuel produced from it can create a compliance unit pursuant to sections 13 to 16. If the municipal solid waste does not meet these requirements, no compliance units are created from any fuel produced from it.

*L.8: Is the limitation of municipal solid waste too restrictive to encourage diversion of waste from landfills?*

Environment Canada considers that the definition is appropriate to encourage the use of municipal solid waste to produce liquid renewable fuels, while ensuring that there is a sufficient level of biogenic material as feedstock in the production of renewable fuel.

***Sections 18 and 19 – Ownership of Compliance Units***

*M.1: When is a compliance unit created?*

Please refer to question K.1.

*M.2: Can I enter into an agreement as to how compliance units created by one party will be distributed among various parties?*

Yes.

*M.3: Can I enter into an agreement to jointly own a compliance unit with another party? Can I own a fraction of a compliance unit or a fraction of a jointly-owned pool of compliance units?*

A compliance unit can only be owned by one person at a time and is not divisible.

*NEW M.3.1: What happens if I buy compliance units from another party in order to meet my obligation but it is later found that those compliance units were not created?*

If the compliance units are found not to have been created, you cannot use them. You must correct your records and compliance unit account book as soon as possible. You should also report the matter to Environment Canada.

*M.4: Why are there limits on the number of compliance units that I, as a primary supplier, can own?*

Primary suppliers are obligated to meet the requirements for renewable fuel in their gasoline and distillate pools. The sole mechanism for complying with these requirements is through the ownership of compliance units. It is therefore very important that the compliance units are readily accessible to primary suppliers. The various limitations on the trading system, such as this limitation on maximum ownership, are intended to facilitate this and minimize the possibility of parties manipulating the market for compliance units and speculating on the price of these units.

*M.5: Do I have to be below the limit on ownership of compliance units at the end of each month, or just at the end of the compliance period?*

The limit applies at the end of each month.

*M.6: How do I know how many compliance units I own at the end of each month?*

Paragraph 31(4)(*c*) requires you to keep a record of your month-end balance of compliance units.

*M.7: There is a limit on the number of compliance units that I may own at the end of each month. Creation of compliance units is not confirmed until I make records under sections 31 and 32, so compliance units created during a month are in "limbo" until these records are made. Do I own any such compliance units that are created but not confirmed at the end of the month? If yes, how can I own them if their creation has not been confirmed?*

The recording of the creation of compliance units confirms their existence from the moment of their creation. Consequently, the creator of a "confirmed" compliance unit owns the compliance unit at the end of the month of its creation (unless it is used for compliance or traded after its confirmation). Until confirmation occurs, compliance units are not owned. Also refer to question K.16.

Further, if contrary to subsection 31(3), the record confirming the existence of the compliance unit is not made until later than 15 days after the end of the month in which it was created, the compliance unit is owned, on confirmation, for the purpose of the section 19 limit, at the end of the month in which it was created (and as well at the end of any intervening months). In such a case of a late record, in addition to having contravened subsection 31(3), you may be required to cancel further compliance units with respect to any intervening months.

*M.8: Why, under subsection 19(3), is the number of compliance units that a primary supplier owns at the end of a month deemed to not include the number of compliance units transferred in trade that is in excess of the number of units received in trade during the next month?*

This provision provides a "true-up" period during which a primary supplier may trade away compliance units in excess of the monthly limits.

*M.9: What was the basis for the factors used in the limits on ownership of compliance units? What is the purpose of the two approaches to calculate the maximum number of compliance units allowed?*

The factor of six in paragraph 19(1)(*a*) recognizes that there may be primary suppliers who only deal with E85 fuel. For each 100 litres of E85, there are 15 litres of gasoline and 85 litres of renewable fuel. Therefore, 85 gasoline compliance units are created for each 15 litres of gasoline, or a ratio of 85 to 15, or approximately 6 to 1.

A person who only imports might not import fuel in the first few months of a year. Under paragraphs 19(1)(*a*) and (2)(*a*), such a person would have a zero limit for those months. Paragraphs 19(1)(*b*) and (2)(*b*) recognize that such a primary supplier could carry forward compliance units and accounts for this with a second limit based on the allowable carry forward of compliance units as set out in sections 21 and 22.

The factor of 0.01 for the limit under paragraph (*b*) is based on the carry forward provisions, and is derived from 20% of the renewable fuel requirement for gasoline (i.e., 20% of 5% = 0.01). For most months, the limit under paragraph (*a*) will provide a larger allowance.

*M.10: Is there a limit on the number of distillate compliance units that a primary supplier may own prior to the start of the first distillate compliance period?*

No. Note however, there is a limit on how many distillate compliance units a primary supplier can carry forward into the first distillate compliance period. (Refer to subsection 22(3)).

*M.11: Is there a limit on the number of compliance units that a primary supplier may own during the last three months of a trading period in respect to a compliance period?*

No. However, there is a limit for these same three months in respect to next compliance period.

*M.12: Why are there no limits on the number of compliance units that an elective participant can own?*

The limitations of section 19 are intended to minimize the possibility of some parties acquiring large numbers of compliance units and speculating on the price of these units. As an elective participant cannot obtain compliance units from others, they can own only those that they create. Hence, no explicit limit is needed for elective participants.

### *Section 20 – Trading of Compliance Units*

*N.1: How do I "trade" a compliance unit?*

The Regulations specify that compliance units may be traded. Primary suppliers and elective participants may sell or trade compliance units to others; only primary suppliers may buy or receive compliance units. The latter limitation is included in the Regulations to ensure that compliance units flow to persons obligated to meet the requirements for renewable

content in the gasoline and distillate pools. Except for these limitations, and some recordkeeping and reporting requirements, the Regulations do not specify how trading occurs or how much the compliance units are worth.

*N.2: Can I transfer in trade compliance units that I created, but for which I have not yet made records under sections 31 and 32?*

No, you cannot. Such compliance units are not yet confirmed in their creation, and if the record is never made they are deemed never to have been created.

*N.3: Is trading restricted to primary suppliers only?*

Any participant may trade compliance units, provided that the party receiving the compliance units is a primary supplier.

*N.4: Why can't compliance units be traded between elective participants?*

Primary suppliers must meet the requirements for renewable fuel in their gasoline and distillate pools. The sole mechanism for complying with these requirements is through the ownership of compliance units. It is therefore very important that compliance units be fluid and obtainable by primary suppliers. The various limitations on the trading system, such as this limitation on trading, are intended to achieve this and minimize the possibility of some parties manipulating the market for compliance units and speculating on the price of these units.

*N.5: Can anyone buy a compliance unit?*

No, only primary suppliers can acquire compliance units from others. No other person can do so.

*N.6: Will Environment Canada buy my surplus compliance units? Will Environment Canada sell me compliance units if I need them?*

No.

*N.7: Compliance units do not have an identification number as RINs do. How do I identify a compliance unit that I trade to or acquire from someone?*

Each trade of compliance units is recorded in your compliance unit account book (and the book of the other participant), as required under section 31 of the Regulations. You must also record the details of each trade, under subsection 32(6), including the number and type of

compliance units traded, the date of the trade, and the name of the other party. You (and the other participant) must submit a summary of these trades to Environment Canada in your annual report. Your auditor must also review the records pertaining to all trades that you undertook during a trading period.

*N.8: How do I determine if compliance units I want to buy are valid?*

It is up to individual parties to assess the validity of the compliance units that they are buying. Environment Canada receives annual and audit reports from all participants and may inspect participant's records and compliance unit account books to verify compliance with the Regulations. Environment Canada does not assess the validity of compliance units for the purposes of validating trades between participants.

*N.9: Can I trade at any time? Can I trade any compliance unit?*

Compliance units created during, or carried forward into, a compliance period may be traded at any time during the associated trading period; that is, from the start of the compliance period (usually January 1) to March 31 following the end of the compliance period. Compliance units that have been carried back may not be traded.

*N.10: Can I trade compliance units created during the previous compliance period?*

Compliance units created during a compliance period may be traded during the trading period associated with that compliance period. As the last three months of a trading period falls in the next compliance period (e.g., January 1 to March 31), you may be trading compliance units in relation to two compliance periods during this time. However, compliance units may only be used to establish compliance with the compliance period in which they were created (with the exception of carry forward and carry back provisions).

For example, in order to establish compliance in 2014, you may trade compliance units created in 2014 until March 31, 2015. You may also trade compliance units created during January 1 to March 31, 2015, but those units could only be used for determining compliance in 2015.

In addition, compliance units that were carried forward into a compliance year from the previous compliance period (under sections 21 to 23 of the Regulations) may be traded in the trading period associated with the compliance period into which they were carried.

*N.11: Can I trade compliance units that will be created during the next compliance period?*

No. Only compliance units in existence may be traded. However, this does not preclude the possibility of agreements between participants to trade compliance units once they are created. The actual trade, however, cannot take place until the compliance unit is created and confirmed.

*N.12: Can I transfer in trade compliance units that I carried back from the next compliance period?*

Any compliance units that were carried back (under section 24 of the Regulations) may not be traded once carried it back. This results from the limitation in subsection 20(2) which only allows trading of compliance units created during, or carried forward into, a compliance period.

Since carried-back compliance units cannot be distinguished from other compliance units that a person has, this means that once a primary supplier carries back any gasoline or distillate compliance units, it cannot transfer in trade any compliance units of that type for the compliance period into which the compliance units were carried back. A primary supplier may still receive in trade compliance units.

*REVISED N.13: Can I trade distillate compliance units that were created during the pre-distillate compliance period?*

Yes, you can trade them. Refer to question O.13.2.

*N.14: Are there any limits to the number of compliance units I can trade or receive in trade?*

The number of compliance units you can transfer in trade is limited to the number of compliance units that you own. If you are a primary supplier, you may want to retain enough compliance units to meet your renewable fuel requirement for gasoline, and once it is in force, your renewable fuel requirement for diesel fuel and heating distillate oil. As an elective participant, you may wish to trade away all of the compliance units that you created or you can carry forward your compliance units, under section 23 of the Regulations, for trading in the next compliance period. The maximum number of compliance units that an elective participant can carry forward is the number of compliance units it created during the compliance period. Note that elective participants cannot acquire compliance units from others.

If you are a primary supplier, there is no limit on the number of compliance units you can receive in trade; however, you must comply with the monthly limits on ownership under section 19 of the Regulations. If you are an elective participant, you cannot receive in trade any compliance units.

*N.15: What do I provide to other primary suppliers if I wish to trade compliance units to them? What should I receive from primary suppliers from whom I have received compliance units?*

A party in a trade must make a record, under subsection 32(6) of the Regulations, containing information on the trade, including the name of the other party, the date of the trade, the number and type of compliance units traded. The two parties involved in a trade must provide each other with such information and must record the trade in their compliance unit account book (section 31). The parties must also ensure that all the conditions required for making trades, under section 20, are fulfilled.

*N.16: At what price are compliance units to be bought or sold?*

The Regulations do not set a price for compliance units; this is outside their scope. It is up to individual parties to agree to a price.

*N.17: Will compliance units be worth more at the start of a compliance period, or at the end of a compliance period?*

This is outside the scope of the Regulations. The value of the compliance units will be subject to market forces of supply and demand.

*N.18: Proof of combustion for neat renewable fuel may be difficult to establish. If I choose not to buy compliance units created from the use of neat renewable fuel, how will they be separated out?*

It is up to you to decide from whom you purchase compliance units. A person who has created compliance units from the sale or use of neat renewable fuel must have records confirming the creation of those compliance units, including records evidencing that the fuel was combusted, or sold for that purpose to a neat renewable fuel consumer. If no such records are made, no compliance units are created. Once created, the Regulations do not distinguish between compliance units, other than being either gasoline or distillate compliance units.

*<u>REVISED N.19</u>: How do I know who I can trade with? Will Environment Canada help me find someone that will buy my compliance units, or to whom I can sell them? Is Environment Canada planning to publish a list of registered participants?*

You must find your own trading partners; however, you can contact Environment Canada for a list of registered participants via e-mail at: **fuels-carburants@ec.gc.ca**.

*N.20: Under the Regulations, is there any required format for a contract to sell or buy compliance units? And if so, will Environment Canada provide a template for such contracts?*

There is no required format for such a contract, and Environment Canada does not intend to provide a template for such a contract.

*N.21: Am I required to report the sale price of any traded compliance units?*

No, you are not.

*N.22: At the end of a trading period, I completed my compliance unit account book and filed my annual report. Subsequently, the validity of some compliance units of a party from whom I purchased compliance units has come into question. As a result, I may have a shortage, and not have enough compliance units to meet my pool requirements. How would I correct this? What are my rights with respect to the seller of the invalid compliance units should I be found in non-compliance of the pool requirements?*

Compliance with the *Renewable Fuels Regulations* is mandatory. You may wish to put in place practices and procedures to ensure the validity of any compliance unit that you receive in trade.

Environment Canada's Enforcement officers apply the *Canadian Environmental Protection Act, 1999* in a fair, predictable and consistent manner and will examine every instance of suspected non-compliance with the regulation. If a violation is confirmed, action will be taken using one or more of the enforcement tools available under the Act, such as warnings, directions, tickets, orders of various types, including environmental protection compliance orders, injunction or prosecution. More information on the enforcement of the Act can be found on the CEPA Registry Website at: http://www.ec.gc.ca/CEPARegistry/enforcement/

***Sections 21 to 23 – Carrying forward of Compliance Units***

*O.1: As a primary supplier, how do I know how many surplus compliance units I have available to carry forward?*

The equations for calculating how many surplus compliance units you have are found in subsection 21(2) of the Regulations for gasoline compliance units and subsection 22(2) for distillate compliance units. The formulae are basically the number of compliance units you have at the end of the trading period minus the required renewable fuel volume.

*O.2: I am a Primary supplier. Is there a limit on the maximum number of surplus compliance units that I can carry forward? Why?*

There is a maximum limit on the number of surplus compliance units that can be carried forward. For a primary supplier, the maximum for gasoline compliance units is 20% of your renewable fuel requirement for gasoline (20% of 5% = 0.01), and the maximum for distillate compliance units is 20% of your renewable fuel requirement for diesel fuel and heating distillate oil (20% of 2% = 0.004).

The reason for setting a limit is to help ensure a smooth and predictable demand for renewable fuel. For example, if a person managed to accumulate a surplus of compliance units equal to their next year's pool requirement, that person might not purchase any renewable fuel for that year. This could lead to market uncertainty for renewable fuel and disrupt production.

*<u>REVISED O.3</u>: I am an elective participant. Is there a limit on the maximum number of surplus compliance units that I can carry forward? Why?*

An elective participant may carry forward compliance units up to a maximum of the number of compliance units that they created during a compliance period. <u>These compliance units may be carried forward indefinitely as long as the maximum limit is respected.</u> The reason for setting a limit is to help ensure a smooth and predictable demand for renewable fuel.

O.4: I am a primary supplier. Can I carry forward compliance units in respect of a compliance period prior to the end of that period?

No. You can only carry forward compliance units that are surplus and your surplus cannot be determined until the end of the compliance period.

An exception to this is that distillate compliance units can be carried forward into the first distillate compliance period at the end of the pre-distillate compliance period.

*O.5: I am an elective participant. Can I carry forward compliance units in respect of a compliance period prior to the end of that period?*

Yes.

*REVISED O.6: I am a primary supplier. How many distillate compliance units can I carry forward into the first distillate compliance period?*

A primary supplier may carry forward unused distillate compliance units created during the pre-distillate compliance period up to a specified maximum. The maximum carry forward of such distillate compliance units into the first distillate compliance period is 0.004 multiplied by the primary supplier's distillate pool, determined using the pre-distillate compliance period (December 15, 2010 to June 30, 2011) as if it were the distillate compliance period (20% of the 2% requirement = 0.004). This maximum is not related to the actual renewable fuel contained in your diesel fuel or heating distillate oil.

The reason for setting this limitation is to help facilitate a smooth and predictable demand for renewable fuel.

*O.7: I am a primary supplier. Can I carry forward distillate compliance units that were created during the first gasoline compliance period into the second gasoline compliance period?*

Distillate compliance units created during the pre-distillate compliance period can be carried forward by a primary supplier into the first distillate compliance period. They cannot be carried into a gasoline compliance period.

*O.8: I am an elective participant. Can I carry forward distillate compliance units that I created during the first gasoline compliance period into the second gasoline compliance period? Can I carry distillate compliance units that I create during the pre-distillate compliance period into the first distillate compliance period?*

An elective participant cannot carry forward distillate compliance units into the first distillate compliance period nor into any gasoline compliance period that ends before the start of the first distillate compliance period.

*REVISED O.9: Section 23 stipulates that an elective participant cannot carry forward distillate compliance units into the first distillate compliance period, or into any gasoline compliance period that occurs before the first distillate compliance period. I am an elective participant.*

*(a) Can I carry forward those distillate compliance units?*

No. As an elective participant, you cannot carry forward distillate compliance units into the first distillate compliance period, or into any gasoline compliance period that occurs before the first distillate compliance period.

*(b) Can I transfer those distillate compliance units in trade?*

Yes, once you have made the records which confirm creation of the compliance units. You may trade distillate compliance units created prior to the first distillate compliance period (i.e., prior to July 1, 2011) to a primary supplier at any time on or before September 30, 2011.

*NEW O.9.1: Is the timing of the pre-distillate compliance period different in Quebec and the Maritimes (due to the optional pool exclusions prior to 2013) than the rest of Canada?*

No, the pre-distillate compliance period is the same for all parts of Canada, regardless of optional pool exclusions for some regions. It is defined in subsection 1(1) as "*the period that begins on December 15, 2010 and that ends on June 30, 2011.*"

*O.10: Will Environment Canada approve my carry forward of compliance units?*

No. Environment Canada does not approve the carrying forward of compliance units. All such carrying forward of compliance units must comply with the requirements of sections 21, 22 or 23 of the Regulations, as the case may be. Environment Canada will monitor compliance with the Regulations, through annual and audit reporting provisions for participants and may inspect participant's records, compliance unit account books and other required supporting information. Also, all annual reports are to be audited by the third-party auditor.

*O.11: At the end of a trading period, I carried forward some compliance units. Subsequently, I discovered an error in my calculation of surplus compliance units. My actual surplus was less than the number of units I carried forward. How do I correct this?*

You should revise your records, including those in your compliance unit account book to make the necessary correction. If you submitted a report reflecting the error, you should inform Environment Canada immediately. Note that you would be in contravention of record making provisions of the Regulations.

*REVISED O.12: Repealed.*

*REVISED O.13: I am a primary supplier. What happens to the distillate compliance units that I created during the pre-distillate compliance period? How do I keep track of them and how do I distinguish them?*

Distillate compliance units created before July 1, 2011 are recorded in your compliance units account book. As per subsection 22.1(2), distillate compliance units created between July 1, 2011 and September 30, 2011 must be distinguished from distillate compliance units created before July 1, 2011. Records of all transactions must indicate when the compliance units were created and a written statement must be provided to any buyer of these distillate compliance units.

*NEW O.13.1: Why do the pre-distillate compliance units need to be tracked separately?*

Because there is a limit on carry forward for these pre-distillate compliance units, these units must be distinguished from distillate compliance units created on or after July 1, 2011. On October 1, 2011, pre-distillate compliance units not carried forward or assigned are cancelled and therefore no further tracking is needed.

*NEW O.13.2: Can I trade these distillate compliance units or carry them forward into the first distillate compliance period?*

Yes, distillate compliance units created prior to the first distillate compliance period (i.e., prior to July 1, 2011) may be traded to a primary supplier at any time on or before September 30, 2011. Such units can then be carried forward by a primary supplier (subject to limits of subsection 25(6)) and used to meet the 2% requirement in the distillate compliance period into which they were carried forward into. They may also be used to meet the renewable fuel requirement for gasoline for the first gasoline compliance period, if the distillate compliance units are assigned for that purpose on or before September 30, 2011.

*NEW O.13.3: Will I be able to assign those distillate compliance units for compliance with the 5% renewable fuel requirement for gasoline after September 30, 2011?*

Yes, you can use them to meet the 5% requirement for gasoline after September 30 by assigning them to the 5% requirement on or before that date. Please note that pre-distillate compliance units not carried forward or assigned to be used to meet the 5% requirement for gasoline are cancelled as of October 1, 2011.

*NEW O.13.4: I created distillate compliance units during the pre-distillate compliance period, but I did not carry them forward into the first distillate compliance period or assign them to meet the gasoline requirement prior to October 1, 2011. Can I carry forward or assign these compliance units after that date?*

No, you cannot. Under subsection 25(6), all distillate compliance units created during the pre-distillate compliance period that were not carried forward or assigned prior to October 1, 2011, are cancelled.

*REVISED O.14: Repealed.*

*REVISED O.15: Repealed.*

*O.16: It appears that elective participants can carry forward more of their compliance units than primary suppliers. Is this true?*

The provisions of section 23 of the Regulations permit elective participants to carry forward all of the compliance units that they created during a compliance period. Because an elective participant cannot obtain any compliance units other than those that they create, they cannot accumulate excess quantities of compliance units.

*O.17: Why can't elective participants carry forward distillate compliance units into the first distillate compliance period?*

This limitation is intended to help facilitate the smooth and predictable demand for renewable fuel.

*O.18: Can I keep carrying forward any surplus compliance units year after year?*

Yes, subject to the specified maxima. Each year a primary supplier must calculate both the number of surplus compliance it has and the maximum number of compliance units it can carry forward. Allowing compliance units to be carried forward is intended to help facilitate smoothing out year-to-year irregularities in the demand for renewable fuels. It also offers a "cushion" for primary suppliers to counter unforeseen circumstances.

*NEW O.18.1: Can I carry forward compliance units every compliance period?*

Yes, you can. However, (sub)sections 21, 22, 22(1) and 23 limit the number of compliance units that can be carried forward, depending on the situation.

### *Section 24 – Carrying back of Compliance Units*

*P.1: What is carry back? Why are provisions for carrying back compliance units included in the Regulations?*

Compliance units that have been created after the end of a compliance period but before the end of the associated trading period (i.e., between January 1 and March 31) are eligible for carry back by a primary supplier`. The concept of carrying back compliance units has been introduced to mitigate possible minor unforeseen circumstances and small accounting errors by primary suppliers. The use of the carried back of compliance units permits the primary supplier to compensate for such unplanned for irregularities.

*P.2: When must a compliance unit be created in order to be eligible to be carried back into the compliance period?*

To be carried back into a compliance period, a compliance unit must be created during the last three months of the trading period associated with the compliance period. That is, the compliance unit must be created between January 1 and March 31 following the compliance year.

For example, if a compliance unit is created on February 22, 2015, it may be used for compliance with the 2015 compliance period, or it may be carried back by a primary supplier for use in the 2014 compliance period. A compliance unit created on or after April 1 of any year cannot be carried back for use.

*P.3: Why is the maximum number of compliance units that I can carry back smaller than the maximum number I can carry forward?*

The number of compliance units that can be carried back is small, in keeping with the intent of this “accounting-correction” provision. It is not intended to be used very often.

The maximum number of gasoline compliance units that can be carried back is 5% of the renewable fuel requirement for gasoline (5% of 5% = 0.0025). For distillate compliance units, the maximum number is 5% of the renewable fuel requirement for diesel fuel and heating distillate oil (5% of 2% = 0.001).

*P.4: Can I carry back distillate compliance units and use them to meet my renewable fuel requirement for gasoline?*

Yes, you can.

*P.5: Are there any associated requirements with carrying back compliance units?*

Yes, there are. You must cancel two compliance units of the applicable type for each compliance unit that you carried back. These compliance units must be cancelled prior to the end of the trading period (i.e., before April 1) in respect of the compliance period into which they were carried back into.

For example, in February 2015, you carried back 100 gasoline compliance units for use in the 2014 compliance period. You must then cancel 200 of your remaining gasoline compliance units before April 1, 2015.

You must also make the records in your compliance unit account book required by paragraphs 31(2)(*h*) and (*i*) and report on the number of compliance units carried back and cancelled according to items 9(1)(*c*) and (*d*) and 10(*a*) of Schedule 5. As well, the number of cancelled compliance units must be included in the values of $CB_G$ and $CB_D$ reported under items 2 and 4 of Schedule 4.

*P.6: What happens if I carry back compliance units, but don't have enough compliance units to cancel two compliance units for each one that I carried back?*

If you wish to take advantage of the carry back provisions, you must have enough compliance units to cancel.

For example, if you wish to carry back 50 compliance units, you would have to cancel 100 of your remaining compliance units, thus requiring 150 compliance units in total. If you only have 100 compliance units, you could not carry back 50 compliance units. However, you could carry back 33 compliance units and cancel 66 of your remaining compliance units, thereby using a total of 99 compliance units.

*P.7: Can I carry back compliance units every year?*

Yes.

*P.8: Why was the proposed limitation on not allowing carrying back in consecutive years not included in the final Regulations?*

After reviewing comments received from stakeholders, Environment Canada removed this proposed limitation. Environment Canada believes that the requirement to cancel two compliance units for each compliance unit so carried back will appropriately limit the use of this provision which is intended to provide some flexibility for unforeseen circumstances.

*P.9: Why can't an elective participant carry back compliance units?*

Elective participants cannot carry back compliance units, because they do not have any requirements for renewable content. Refer to question P.1. Prior to the end of a trading period, an elective participant may transfer in trade compliance units to a primary supplier, who could then carry back those compliance units for the primary supplier's use.

### *Section 25 – Cancellation of Compliance Units*

*Q1: Under what circumstances am I required to cancel compliance units?*

You are required to cancel compliance units:

- as part of the condition allowing the carrying back of compliance units; and
- to cover the renewable content of exported fuel,

Compliance units are cancelled if

- the number owned is in excess of the monthly maximum, or
- they are unused at the end of the trading period and not carried forward.

If you withdraw from the trading system, pursuant to subsection 11(3) of the Regulations, you must cancel all outstanding compliance units as of the date of your withdrawal.

Note that under subsection 22(3), distillate compliance units carried forward into the first distillate compliance period are considered to be in the process of being carried forward prior to the beginning of the first distillate compliance period. Hence such units are not required to be cancelled at the end of a trading period that occurs before the beginning of the first distillate compliance period.

You must make the records in your compliance unit account book as required by section 31 and report on the number of compliance units cancelled according to Schedule 5.

*Q.2: When do I have to cancel my compliance units?*

Generally, you must cancel compliance units by the end of the trading period for which the cancellation is required. Compliance units in excess of the monthly maximum allowance are cancelled at the end of the month following the month in which the excess occurs.

If you withdraw from the trading system, pursuant to subsection 11(3) of the Regulations, you must cancel all outstanding compliance units as of the date of your withdrawal.

*Q.3: How do I cancel compliance units?*

You cancel compliance units for carry back, for renewable content in exported fuel, or for withdrawal from the trading system by recording the cancellation in your compliance unit account book, pursuant to paragraphs 31(2)(*i*), (*j*), or (*m*) of the Regulations.

Compliance units are automatically cancelled if in excess of the monthly maximum, or unused at the end of the trading period and not carried forward. These cancellations are also required to be recorded in your compliance unit account book, pursuant to paragraphs 31(2)(*k*) or (*l*) of the Regulations.

*Q.4: Subsection 25(4) results in cancellation of compliance units that are neither used nor carried forward. How do I determine if a compliance unit has been "used"?*

For a primary supplier, unused gasoline and distillate compliance units are those that are surplus under subsections 21(2) or 22(2), as the case may be. For an elective participant, unused compliance units are those that they own.

*Q.5: There are a number of provisions regarding compliance units that are tied to "the end of the trading period". What happens in regards to compliance units at the end of the trading period?*

At the end of a trading period, primary suppliers and elective participants must balance and finalize their compliance unit account books. For primary suppliers compliance with the renewable fuel requirements of section 5 is determined based on the number of compliance units in respect of the relevant compliance period that they own on this day. Under subsection 25(4), compliance units that were neither used nor carried forward at the end of a trading period are cancelled. The record of such cancellations would be the last entry made in your compliance account book in respect of any compliance period, and can only be made once you determine how many compliance units are neither used nor carried forward at the end of the trading period.

*Q.6: Why must I cancel two compliance units for each compliance unit that I carry back? When must this cancellation occur?*

The provisions for carry back permit a primary supplier to compensate for minor unforeseen circumstances and small accounting errors. They are not intended to be used often. To discourage overuse of this flexibility, a primary supplier must cancel by the end of the trading period (March 31), two remaining compliance units of the applicable type for each one they carried back.

*Q.7: What if I don't have enough compliance units for the cancellation required for the carry back provisions?*

If you wish to take advantage of the carry back provisions, you must have enough compliance units available to cancel. Refer to question P.6.

*Q.8: Why do I have to cancel compliance units for fuel with renewable content that was exported?*

The Government of Canada is committed to expanding the production and use of renewable fuels in Canada. Any batch of fuel with renewable content may have had corresponding compliance units created for that renewable content, under these Regulations. To support the Government's commitment, if that fuel is exported and thus not used in Canada, compliance units must be cancelled.

This provision also removes the possibility of a person creating compliance units both in Canada and RINs in the U.S. (or something similar in another country) for the same batch of fuel with renewable fuel content, and gaining a double benefit from that same volume.

*NEW Q.8.1: Do I have to cancel compliance units for exported fuels produced from biocrude?*

Yes, you must cancel compliance units for exports of fuels produced from biocrude. They must be cancelled in proportion to the biocrude-derived fuel exported to the total biocrude-derived fuel produced. If the exported fuel is diesel fuel or heating distillate oil, then distillate compliance units are cancelled. Otherwise, gasoline compliance units are cancelled (see subsection 25(4)).

*REVISED Q.9: Do I have to cancel compliance units if my affiliate exports a batch of petroleum fuel containing renewable fuel, or fuel produced from biocrude? What if my affiliate is also a participant?*

You must cancel compliance units for all batches that your affiliate exported that contained renewable fuel or was produced from biocrude,

unless your affiliate is also a participant. In that case, the affiliate would be the one who would have to cancel the compliance units.

*Q.10: Do I have to cancel compliance units if I become aware that a batch of fuel was exported by a third party who was not an affiliate of my company?*

No, you do not. You cannot be expected to have access to the records of a third party who is not an affiliate of yours.

To assess the extent of any double counting of renewable fuel volumes, the regulation does have a number of provisions which allow Environment Canada to monitor exports of fuel that has renewable content. Primary suppliers, elective participants, producers and importers of renewable fuels, and other persons who sell fuel for export are all required to report on exports of fuel that has renewable content.

*NEW Q.10.1: What happens if cancelled compliance units get misrepresented as being available for use?*

This would be in contravention of the Regulations. Such misrepresentation must be corrected as soon as possible. Also, refer to questions K.17 and M.3.1.

## PART 3 – RECORDS AND REPORTING

### *Section 26 – Request for Samples and Other Information*

*R.1: Why does Environment Canada want samples of my fuel?*

This provision is an enabling provision that permits Environment Canada to obtain samples of fuels to conduct any necessary analysis for the administration of these Regulations and for verifying compliance with the Regulations. Samples need only be made available when Environment Canada requests such samples. Some potential analyses that may be done include assessing the level of renewable substances in a fuel, or indicators of renewable fuels, such as oxygen content.

*R.2: Is there any requirement to retain samples of the fuel that I produce or import?*

No, you are not required to retain any samples of fuel for the purposes of the *Renewable Fuels Regulations*. However, there are requirements to retain samples under other federal fuels regulations, specifically the *Benzene in Gasoline Regulations*.

*R.3: If Environment Canada takes a sample of my fuel under these Regulations, can it also test my fuel against other fuel requirements?*

Yes.

*R.4: If I only sell fuel, but do not produce or import fuel, why is it necessary to provide samples of my fuel or copies of my records to Environment Canada?*

Under some circumstances, Environment Canada will want to track the distribution of a certain batch of fuel back to its source. This provision will assist in that task.

*R.5: How will records and samples be requested by Environment Canada?*

Access to records would normally be requested by Environment Canada enforcement officers inspecting your facility. During an inspection, the enforcement officers may also request samples of your fuel. Requests for records and samples could also arise under other circumstances.

*R.6: When must I provide the records and samples to Environment Canada?*

You must provide the records and samples to Environment Canada as per the instructions of Environment Canada's enforcement officer or other staff who is making the request.

*R.7: Will I be told beforehand that a sample will be requested?*

Usually, no.

*R.8: Doesn't the requirement for persons producing, importing or selling fuel to provide a sample of the fuel upon request by the Minister imply that sellers of fuel must meet the renewable fuel requirements for the fuels that they sell?*

No, it does not. Sellers of fuels are generally not covered by the Regulations (except for some reporting requirements for sellers of fuel for export). However, under some circumstances Environment Canada staff will want to track the distribution of a batch of fuel back to its source. This provision will assist in that task.

### *Section 27 – Reporting Form and Format*

*S.1: Under what circumstances do I not have to submit a report in an electronic format?*

You do not have to submit a report in an electronic format if Environment Canada has not provided one. Once Environment Canada has provided an electronic form and format, you are required to use them, unless there are circumstances beyond your control that make it impractical for you to do so. This will be assessed on a case-by-case basis.

*S.2: Under what circumstances do I not have to submit a report in a specified paper format?*

You do not have to submit a report in the specified paper format if Environment Canada has not provided one. If there is a specified paper format, you must submit your report in that format.

*S.3: Why is the auditor's report not required to be submitted electronically or in a prescribed format?*

These reports are expected to be unique to each auditor and person being audited, so no format has been specified. The requirements for the auditor's report are set out in section 28 and Schedule 3 of the Regulations.

*S.4: Who has to sign the reports submitted under the Regulations?*

All reports must be signed by the authorized official of the regulatee – a term that is defined in section 1 of the Regulations (refer to questions B.46 and B.47). In addition, the auditor's report must be signed by the auditor who did the audit.

### *Section 28 (and Schedule 3) – Auditor's Report*

*REVISED T.1: Who is required to submit an auditor's report under section 28 of the Regulations?*

Primary suppliers, elective participants, and producers and importers of renewable fuel must each submit an auditor's report. There is no prescribed format for this report.

*T.2: Are there any exceptions regarding who is required to submit an auditor's report?*

To be excluded from having to submit an auditor's report under subsection 2(4), a person must

- produce and/or import less than 400 $m^3$ of gasoline and produce and/or import a combined volume of less than 400 $m^3$ of both diesel fuel and heating distillate oil and produce and/or import less than 400 $m^3$ of renewable fuel, or
- produce and/or import only specialty-use fuels (of any volume) and produce and/or import less than 400 $m^3$ of renewable fuel.

For example, a primary supplier above the volume threshold for gasoline is not exempt from submitting an auditor's report just because it does not produce or import any renewable fuel. Similarly, a renewable fuel importer who imports above the volume threshold is not exempt from submitting an auditor's report because it did not import any gasoline.

In addition, under subsection 28(3), producers and importers of renewable fuel are not required to submit an auditor's report for a compliance period if they demonstrate that no compliance units whatsoever were created from the renewable fuel that they produced or imported during that compliance period. This may occur, for example, if the producer or importer provides renewable fuel solely to a party who exports the renewable fuel in its neat form, or who is not a participant in the trading system. Such a producer or importer of renewable fuel is still required to make records and report under section 34, but it need not have its records and reports audited.

*T.3: I do more than one of the following activities at various facilities:*

- *Produce gasoline and diesel fuel*
- *Import gasoline and diesel fuel*
- *Create compliance units by blending*
- *Create compliance units by importing liquid petroleum fuel containing renewable fuel*
- *Produce renewable fuel*
- *Import renewable fuel*

*How many auditor's reports am I required to submit each compliance period?*

Only one auditor's report is required, provided it covers all your activities and operations.

*T.4: The auditor's report requires an assessment "in respect of the gasoline compliance period or distillate compliance period, as the case may be." If, a calendar year constitutes both a gasoline compliance period and a distillate compliance period, can one auditor's report cover both?*

Yes, it can.

*T.5: Do I have to have a third-party audit every year?*

Yes, unless you fall into one of the exemptions described in question T.2.

*T.6: Why is a report by a third-party auditor necessary?*

These Regulations include many flexibilities for regulatees, including annual averaging provisions and a trading system, and rely on records to support the creation of compliance units and their trade. Independent audits by accredited third-parties are vital in helping to ensure the integrity of the trading system, validate compliance units created, validate trades, and verify compliance. Third-party audits are a standard feature of federal fuel Regulations that are based on annual averages for compliance.

*T.7: What is the auditor required to do? What information is required to be in the report?*

The requirements of the audit are set out in section 28 and Schedule 3 of the Regulations. The auditor must assess whether the person's "*practices and procedures are, in the auditor's opinion, appropriate to ensure, and to demonstrate, compliance with these Regulations*." To do so, the auditor must review a significant sample of the person's records, reports and any supporting information and identify any possible deviations from the requirements of the Regulations.

Some of the audit requirements set out in Schedule 3 only pertain to primary suppliers (item 5) and primary suppliers and elective participants (item 6). The rest of the requirements pertain to primary suppliers, elective participants, and producers and importers of renewable fuel.

*T.8: What qualifications are required of a third-party auditor?*

The qualifications of the auditor are specified in the definition of "auditor" found in subsection 1(1) of the regulation. The auditor must be independent of the person and ISO-9000 certified by a national or international accreditation organization. These qualifications are the same as under other federal fuel Regulations.

*T.9: Where can I find a person capable of undertaking an audit?*

Various accreditation organizations, such as the Standards Council of Canada (**www.scc.ca**) and the International Register of Certificated Auditors (**www.irca.org**), may be able to assist in finding a person capable of undertaking an ISO 9000 assessment. Other accreditation organizations may also be able to provide assistance.

*T.10: Why is the auditor's report not due until June 30? Why not sooner?*

The June 30 date is one month later than the deadline for auditor's reports under other federal fuel Regulations (May 31). This later date is due to the annual reports being submitted later under the *Renewable Fuels Regulations* (April 15 vs. February 15 under other Regulations) and because the auditor will have significantly larger numbers of records and reports to review than in other Regulations.

*T.11: When is the first auditor's report due by?*

It is due June 30, 2013 and must cover the period December 15, 2010 to December 31, 2012. Subsequent auditor's reports are due by June 30 of each year. Note that there is no auditor's report required in 2012.

*T.12: Who signs the auditor's report?*

The auditor's report must be signed by the auditor who undertook the audit. It must be submitted to Environment Canada by the authorized official of the regulatee.

*T.13: Why are all the records related to trades of compliance units required to be reviewed by the auditor, but not all the records related to other transactions of compliance units (e.g., creation, cancellation, etc.)?*

This provision ensures that each trade is scrutinized by an independent third-party. This is important in maintaining the robustness and credibility of the trading system. Recent enforcement actions in the United States demonstrate that fraudulent trading of RINs (or compliance units) is possible.

Also, unlike the creation of compliance units which may occur on an ongoing basis, it is expected that trades will be limited in number and may not occur often during a trading period.

*REVISED T.14: Repealed.*

*T.15: If I do not produce or import gasoline, diesel fuel, heating distillate oil or renewable fuel during the compliance period and do not create or receive any compliance units, am I still required to have an audit for that compliance period?*

No.

*T.16: Will Environment Canada pay for my audit?*

No. Engaging and compensating the auditor are the responsibility of the regulatee.

*T.17: Can I see the audit report of another party?*

Generally, no. Auditor reports are third-party documents under the *Access to Information Act*, and possible release of them would be subject to that Act.

*T.18: Does the auditor have to audit my affiliate's records if they export petroleum fuels with renewable fuel content but are not primary suppliers, elective participants, or producers or importers of renewable fuel?*

No. Such persons are not required to have their records audited under these Regulations.

### *Section 29 – Records for Primary Suppliers*

*U.1: Why is a record required for every batch that I produce or import?*

These records are the basis for the determination of your gasoline and distillate pools under section 6 of the Regulations. It is critical that there are records for each batch to establish your pool volume. Auditors and Environment Canada enforcement staff will use these records to verify your calculations.

*U.2: Why is Environment Canada interested in whether my gasoline was finished or unfinished gasoline?*

It is expected that much of the gasoline leaving refineries will be unfinished gasoline, destined to be blended into finished gasoline at blending facilities downstream of the refinery. The separate reporting of finished and unfinished gasoline will permit Environment Canada to understand and monitor the downstream blending of gasoline in Canada.

*U.3: How do I determine the volume of renewable fuel in a batch?*

All volumes, including the volume of renewable fuel in a batch, must be determined in accordance with a measurement device, standard or method specified in section 4 of the Regulations. This determination may be done at the time the renewable fuel is added to the liquid petroleum fuel.

*U.4: When must the record be made?*

Records must be made "*as soon as feasible but no later than 15 days after the information to be recorded becomes available*." This requirement is specified in section 37 of the Regulations.

*REVISED U.5: If I import a batch of "E10" gasoline, can I assume the volume is 10% renewable fuel for the purposes of these Regulations? If I import a batch of "B5" diesel fuel, can I assume the volume is 5% renewable fuel for the purposes of these Regulations?*

No, you cannot. The volume of renewable fuel must have been measured in accordance with section 4 of the Regulations; normally, this would be by the person who blended the batch prior to its importation. You would have to obtain the volume and measurement information from the person from whom you obtained the fuel.

*NEW U.5.1: If I have a contract with a foreign supplier to provide me with "E10" or "B5", can I assume that the volume of renewable fuel is exactly 10% of the gasoline or 5% of the diesel fuel that I imported?*

No, you cannot. Refer to question U.5.

*REVISED U.6: If, prior to the start of the first distillate compliance period (i.e., prior to July 1, 2011), I only produce or import diesel fuel or heating distillate oil, and do not create or receive any compliance units, do I have to make these records as there is no renewable fuel requirement for diesel fuel and heating distillate oil? If so, why?*

Yes, you do. The reported information will provide Environment Canada with information on the operations of future regulatees.

*U.7: If I am exempt as a small volume producer or importer (under section 2 of the Regulations), do I have to make these records? If so, why?*

You must make the record required under paragraphs 29(*a*), (*c*), (*d*) and (*e*) of the Regulations. Specifically, for each batch you produce or import, you must record the volume of the batch, the type of fuel, the production facility or province of importation, and the date of dispatch from the facility, the date of importation or the date that the batch was sent to a fuel dispensing device within the facility. This record is required to establish that you are indeed below the volume threshold of 400 $m^3$ per year.

***Section 30 (and Schedule 4) – Annual Report for Primary Suppliers***

*V.1: When is the annual report due?*

No later than April 15 – which is 15 days after the end of the trading period.

The first annual report (covering the period December 15, 2010 to December 31, 2012) is due by April 15, 2013. The subsequent annual reports are due by April 15 following the end of the compliance periods.

An interim report covering the period December 15, 2010 to December 31, 2011 is due by April 15, 2012 (refer to section 39).

*V.2: Why must I report for each facility when my compliance is based on my company's total pool?*

Although compliance is based on company-wide pools, the creation of compliance units and tracking of volumes of fuel is done at a facility level (e.g., the refinery or the blending facility). Facility-level data can be compared to similar data from other sources for compliance verification and enforcement purposes.

*V.3: Do I need to submit a separate report for each of my facilities?*

No. You must submit one company-wide report that includes all the information required, including any information required on a facility-by-facility basis.

*V.4: Do I have to report on gasoline, diesel fuel or heating distillate oil if during a compliance period I did not produce or import more than 400 $m^3$ of such a fuel during any 12 consecutive months in the compliance period?*

No, pursuant to subsection 2(1) of the Regulations, you do not have to report, unless you opted into the Regulations under section 3.

*V.5: Do I have to report if I only produced and imported a special-use fuel during a compliance period?*

No, pursuant to subsection 2(3) of the Regulations, you do not have to report, unless you opted into the Regulations under section 3.

*<u>REVISED V.6: Repealed.</u>*

*V.7: Are the reporting requirements similar to provincial reporting requirements? Can I base my federal and provincial reports on the same set of records?*

Generally, the reporting requirements are different. The federal and provincial reports are based on different volumes; that is, production and imports vs. first sales. However, there may be many circumstances where the same records can be used for both regulatory regimes.

*V.8: Items 2 and 3 of Schedule 4 require reporting of pool volumes. Item 5 requires reporting by production facility and province of import on volumes of gasoline, diesel fuel and distillate heating oil. Will the sum of volumes under item 5 equal my pool volume?*

Not necessarily. Subsections 6(5) to (7) of the Regulations provide for subtractions from the pool for biocrude and renewable content. Those would not be reflected under item 5 of Schedule 4.

### *Section 31 and 32 – Records for Participants*

*W.1: As a primary supplier who has made records under section 29 of the Regulations, do I also have to make records under sections 31 and 32?*

Yes, you do. As a primary supplier, you are also a participant.

*W.2: What is a compliance unit account book?*

A compliance unit account book is a monthly ledger with a set of records on transactions regarding compliance units that you created, traded, received in trade, carried forward, carried back, cancelled or assigned.

*W.3: Is there a prescribed format for the compliance unit account book?*

Subsection 31(5) provides that the compliance unit account book must be in the form and format specified by Environment Canada. If no format has been specified, any format is acceptable, provided all the required information is recorded.

Environment Canada does not intend to specify a mandatory form and format under subsection 31(5) at this time, but may do so at a later date. Environment Canada will notify participants if and when a form and format are specified. Note that if these are specified, then a copy of the compliance unit account book must be submitted as part of the annual report (refer to item 15 of Schedule 5).

*<u>REVISED W.4</u>: I understand that Environment Canada has developed an e-format for the compliance unit account book. Is this available for me to use? Am I required to use this format?*

Environment Canada has developed an e-format for the compliance unit account book. If you choose to use it and have not already received it, you can contact Environment Canada to get the e-format via e-mail at: **fuels-carburants@ec.gc.ca**. Please note that Environment Canada does not intend to specify this as a mandatory form and format under subsection 31(5) for the first gasoline compliance period nor for the first distillate compliance period. Note that this may change for subsequent compliance periods.

*W.5: What is the purpose of the compliance unit account book?*

The compliance unit account book is intended as a convenient summary and accounting of all transactions related to compliance units – for the participant, for the auditor, for Environment Canada's enforcement officers and other staff. It is a tool that will assist participants in planning for and achieving compliance through the tracking of ownership of and transactions of compliance units and monthly and year-to-date balances. It is also intended to be the entry-level document for assessing compliance by the auditor and Environment Canada's enforcement officers, upon commencing their review of a participant's supporting records and documents.

*W.6: Do I need a separate compliance unit account book for each compliance period?*

Generally, you do not, but you must ensure that each record is clearly identified to which compliance period it pertains. However if a form and format specified under subsection 31(5) has separate compliance unit account books for each compliance period, then you would be required to follow that specified format.

*W.7: Do I need a separate compliance unit account book for gasoline compliance units and distillate compliance units?*

Generally, you do not, but you must ensure that each record is linked to the applicable type of compliance unit. However if a form and format specified under subsection 31(5) has separate compliance unit account books for each type of compliance unit, then you would be required to follow that specified format.

*W.8: Do I need a separate compliance unit account book for each blending facility at which I create compliance units or for each province of import for which I create compliance units?*

Generally, you do not, but you must ensure that each record is linked to the blending facility or province of import to which it pertains. However if a form and format specified under subsection 31(5) has separate compliance unit account books for each blending facility or province of import, then you would be required to follow that specified format.

*W.9: Do I need a separate compliance unit account book for each of my production facilities?*

Generally, you do not. A production facility is only included in the compliance book if compliance units are created at that facility. However if a form and format specified under subsection 31(5) has separate compliance unit account books for each production facility, then you would be required to follow that specified format.

*W.10: Why would Environment Canada consider specifying a form and format for my compliance unit account book?*

Environment Canada may specify a mandatory form and format under subsection 31(5) to promote consistency or to ensure general industry-wide standards are complied with.

*W.11: Can I group the entries in the compliance unit account book, or do I need to record each trade, creation, and cancellation separately?*

Subsection 31(2) requires a monthly record of compliance unit transactions (separately for gasoline and distillate compliance units) for:

- creation of compliance units, by facility (blending and production), province of import and in respect of neat renewable fuel;
- cancellation of compliance units (by province of export where in respect of exported renewable fuel content; otherwise on a company basis);
- trades of compliance units, by each person with who you traded or received in trade compliance units; and
- carry forward, carry back and “distillate-to-gasoline” assignment.

*W.12: Carry forward of compliance units involves moving units in respect of one compliance period into the next compliance period. How do I record this in my compliance unit account book?*

You must make a record of the compliance units carried forward in the compliance unit account book for both periods. For the first period, from which the compliance units are carried, you record the number of compliance units carried forward, and reflect this in the monthly and period-to-date balances as a debit. For the subsequent period that the

compliance units are carried into, you again record the number of compliance units carried forward, but reflect this in the monthly and period-to-date balances as a credit.

*W.13: Carry back of compliance units involves units in respect of one compliance period being moved into the previous compliance period. How do I record this in my compliance unit account book?*

You must make a record of the compliance units carried back in the compliance unit account book for both periods. For the period that the compliance units are carried into, you record the number of compliance units carried back, and reflect this in the monthly and period-to-date balances as a credit. For the subsequent period, from which the compliance units are carried, you again record the number of compliance units carried back, but reflect this in the monthly and period-to-date balances as a debit.

*W.14: What cumulative information must I record in the compliance unit account book?*

Under subsection 31(4) of the Regulations, you must record the monthly and the compliance period-to-date balances of compliance units (separately for gasoline and distillate compliance units) for:

- creation of compliance units, by facility (blending and production), province of import and in respect of neat renewable fuel;
- cancellation of compliance units (by province of export where in respect of exported renewable fuel content; otherwise on a company basis);
- trades of compliance units, by each person with whom you traded or received in trade compliance units;
- carry forward, carry back and “distillate-to-gasoline” assignment;
- company-wide totals of compliance units created, cancelled, transferred in trade, received in trade, carried forward and carried back; and
- company-wide balance of compliance units.

*<u>NEW W.14.1: Do I record compliance units that were carried forward or carried back in the compliance unit account book?</u>*

<u>Yes.</u>

*W.15: Subsections 8(1) and (2) define how the volume of renewable fuel in a primary supplier’s pool is calculated. Should the results of these calculations for a compliance period match the period-to-date balances in my compliance unit account book at the end of the trading period for the compliance period?*

Yes, unless you have compliance units that are unused at the end of the trading period and not carried forward. Such units would be cancelled in your compliance unit account book; however, that cancellation is not reflected in the calculations in subsections 8(1) and (2).

*W.16: When must I enter the information in the compliance unit account book under section 31 of the Regulations, and when must I create a record under section 32?*

The information in the compliance unit account book must be made within 15 days after the end of the month. The additional records made under section 32 of the Regulations must be made as soon as feasible, but not later than 15 days after the information to be recorded becomes available (refer to section 37 of the Regulations). Note also that compliance units are not confirmed until the records are made under both sections 31 and 32 (refer to question K.14).

*NEW W.16.1: When do I record, for the purposes of subsection 32(7), my monthly ownership of compliance units, given that I can trade them during the following month?*

The record must be made within 15 days after the end of the month for which the information is required to be recorded. If there are trades during that following month, the record would then reflect these changes in the following month's entries. See also subsection 19(3) for the maximum ownership number of compliance units.

*W.17: Is the creation of compliance units still confirmed if I make the record of their creation in my compliance unit account book later than 15 days after the end of the month?*

Yes. However, you would be in contravention of subsection 31(3), which requires that the record be made within 15 days of the end of the month.

*W.18: If I find an error in my compliance account book related to the number of compliance units I created, how do I correct it? What is the status of such compliance units?*

Refer to question K.17.

*W.19: What information do I need to record for a batch?*

Section 32 sets out the information that needs to be recorded for each batch. This information includes items such as the volume of the batch,

the date that the batch was blended or imported, the facility at which it was blended, the province into which it was imported, the type of fuel, the type and volume of renewable fuel contained in the batch, and information on the renewable fuel feedstock used to create the renewable fuel. Refer to section 32 of the Regulations for the specific requirements.

*W.20: Why is so much information required to be recorded?*

Compliance verification for these Regulations is based primarily on records, reporting and auditing. There are no widely accepted or widely applicable prescribed test methods for determining the renewable content and renewable fuel type in a primary supplier's fuel. Even if there were, the limits in the Regulations are on the basis of an annual average – any one batch may contain little or no renewable fuel.

There are many ways of creating compliance units and each creation must be fully documented. Trades of compliance units must be fully documented and reported upon to support the robustness of the trading system and the verification of trades. Finally, in order to enable the tracking of renewable fuel back to its source, it is important that participants record from whom they received their renewable fuel.

*W.21: Why are additional records required for high-renewable-content fuels and neat renewable fuel?*

It is possible that these fuels could be further blended with renewable fuel, with the resulting blended product being "renewable fuel", as defined by the Regulations. Such volumes could potentially be used to create a second set of compliance units, resulting in a double counting of the renewable fuel volume. To prevent this, records are required that demonstrate that these fuels were combusted or sold for combustion.

To help ensure that consumers of these fuels do not misfuel their vehicles or other combustion devices, the Regulations require additional records that demonstrate that consumers were informed about the nature of the fuel that they intend to use.

NEW *W.21.1: Can I create compliance units if I blend to get high-renewable-content fuel and it is later blended to a lower level?*

Yes, provided you make records establishing that the final blend is not a high-renewable-content fuel. For example, you may create compliance units when blending biodiesel with diesel fuel to create B50 (a high-renewable-content fuel), as long as it is subsequently blended at a blending facility with diesel fuel to create B5 or lower blends.

*W.22: What do I record if, under some circumstances, I do not know some required piece of information?*

It is generally expected that the information required to be recorded would be known. However, there may be some circumstances where a participant may not know a particular piece of information. Where the phrase “if known” is used in the Regulations, you are not obligated to record such information if you do not know it. However, if this phrase is not present, you are obligated to obtain the information and record it.

*W.23: For the creation of compliance units for high-renewable-content fuels or neat renewable fuel, what happens if I do not know the type of combustion device that was used to combust the fuel? What if I don’t know other required information?*

The record required by subsection 32(3) of the Regulations, for high-renewable-content fuels, must be completed in full before any compliance units are created. If you do not know the type of combustion device in which the fuel was combusted or was sold to be combusted, the record would be incomplete. No compliance unit would be created in this case.

The record required in subsection 32(5) of the Regulations, for neat renewable fuel, has the phrase “*if known”* for information on the person who originally produced the fuel and the type of feedstock used to produce it. If a participant does not record this information for neat renewable fuel because they do not know it, the record is still considered complete.

*W.24: For neat renewable fuels and high renewable-content fuels, what information do I need to record in order to establish that the fuel was identified as being such a fuel in a cautionary statement in both official languages that identified the renewable fuel type, specified the minimum renewable fuel content, and stated that it may not be suitable for some engines and that the owner’s manual ought to be consulted?*

You must record information that demonstrates that all these criteria have been met.

*W.25: Will Environment Canada approve wording of labels or of documents to be used for neat and high renewable-content fuels?*

No.

*W.26: I discover an error after making a record under section 32 supporting the creation of compliance units – I recorded a greater or lesser volume of renewable*

*fuel than I should have. This error has also been reflected in the monthly record of compliance units I made in my compliance unit account book. Can I make corrections to these records? What is the status of such compliance units?*

Refer to question K.17.

*W.27: Are compliance units created if I make a record required under section 32 later than 15 days after the information to be recorded became available?*

Yes. However, you would be in contravention of subsection 37.

*W.28: Paragraph 32(6)(c) requires a record of "the trading period in respect of which the trade is made". I make a trade during the first three months of a year, a period which falls into two trading periods. What do I record as the trading period?*

You record the trading period for the gasoline or distillate compliance period, as the case may be, that the compliance units were created during or carried forward into.

*W.29: Why must I make a record under subsection 32(7) of the Regulations in regards to the maximum number of compliance units that I own?*

This is to establish that the limit on ownership of compliance units under section 19 of the Regulations is complied with.

*W.30: Why must I have documents establishing that the renewable fuel or biocrude which I used meets the applicable definition?*

Compliance units may only be created in respect of renewable fuels or biocrudes. Both of these are defined under section 1 of the Regulations and must meet specified criteria. In order to be "renewable fuel", a fuel must have been produced from the list of feedstocks set out in the definition of "renewable fuel feedstock". A fuel produced from a feedstock that is not described in that definition is not renewable fuel for the purposes of these Regulations, and therefore no compliance units would be created in respect of it.

The documents that establish that these fuels or feedstocks are renewable fuel or biocrude as defined by the Regulations will be used for compliance verification and enforcement purposes.

*W.31: What documentation is required to establish that the fuel is renewable fuel or neat renewable fuel, or that the feedstock is biocrude?*

The required documentation for a renewable fuel must establish that it meets the definition of “renewable fuel”. It must meet all of the defined maximum limits for non-renewable substances in the fuel and be produced from one or more feedstock types described under the definition of “renewable fuel feedstock”.

The required documentation for a neat renewable fuel must establish that it meets the definition of “neat renewable fuel”, including that it is a renewable fuel in the first place.

The required documentation for a biocrude must establish that it meets the definition of “biocrude”, including that it was derived from one or more of the feedstock types described under the definition of “renewable fuel feedstock”. In the case of triglyceride-derived biocrude, the documentation must also establish that the biocrude is a glyceride in which the glycerol is chemically bound with three fatty acids.

*W.32: Why do I need to record the percent content of renewable fuel in a batch?*

The definition of high-renewable-content fuel and the maximum limits on renewable content under subsection 17(1) of the Regulations require that the renewable content of a batch be known and recorded for your information and for enforcement and compliance verification purposes. This will allow the following to be determined:

- Does the fuel meet the definition of high-renewable-content fuel? If so, you must have the additional records that are required in order to create compliance units, or
- Does the renewable fuel content exceed the limits set out under subsection 17(1)? If so, you cannot create compliance units for that batch.

*<u>NEW W.32.1: Are certificates of analyses that specify the percent of renewable content for a fuel adequate, or are more records needed?</u>*

<u>More records are needed. You must have a record that provides the volume of renewable fuel contained in the liquid petroleum fuel.</u>

*W.33: How do I determine the percent content of renewable fuel in a batch?*

The content of renewable fuel can be determined from blending records, provided that the volume of the renewable fuel and the liquid petroleum fuel were determined in accordance with a measurement device, standard or method specified in section 4 of the Regulations. This determination may be done at the time the renewable fuel is added to the liquid petroleum fuel.

If a liquid petroleum fuel which already contains renewable fuel has more renewable fuel added to it, the determination may be done with the assistance of documentation obtained from the original blender of the liquid petroleum fuel.

*W.34: What do I need to record for batches of liquid petroleum fuel that I export? Why is this information required?*

For each batch of liquid petroleum fuel containing renewable fuel that you export, you must record the information specified in subsection 32(8) of the Regulations; namely, the province from which the batch was exported, the type of fuel, and the volumes (of the batch and of the renewable fuel in the batch) and, if known, each type of renewable fuel feedstock that was used to produce the renewable fuel in that batch. The information is required to support verification and enforcement of cancellation of compliance units from exports of fuel with renewable content.

*W.35: What do I need to record for batches of renewable fuel that I export?*

For each batch of renewable fuel that you export, you must record the information specified in subsection 32(8) of the Regulations; namely, the province from which the batch was exported, the volume of the batch and, if known, each type of renewable fuel feedstock that was used to produce the renewable fuel.

*W.36: When must records be made?*

Records must be made "*as soon as feasible but no later than 15 days after the information to be recorded becomes available*." This requirement is specified in section 37 of the Regulations.

*W.37: When must the record of biocrude use be made?*

Records must be made "*as soon as feasible but no later than 15 days after the information to be recorded becomes available*." This requirement is specified in section 37 of the Regulations. In the case of monthly biocrude use, pursuant to subsection 32(4) of the Regulations, the records must be no later than 15 days after the end of the month.

*W.38: Are the entries in my compliance unit account book for the period December 15, 2010 to December 31, 2010 combined with the entries for January 2011.*

Yes, because for that time, “month” is defined as the period from December 15, 2010 to January 31, 2011.

### *Section 33 (and Schedule 5) – Annual Report for Participants*

*X.1: Who must submit a report under section 33 of the Regulations?*

All participants (both primary suppliers and elective participants) must submit this report.

*X.2: If, as a primary supplier, I submit an annual report under section 30 of the Regulations, do I also have to submit a report under section 33?*

Yes, you do. As a primary supplier, you are also a participant.

*X.3: What information is required to be reported?*

The required information is specified in Schedule 5 of the Regulations. It includes various summaries of transactions of compliance units for the compliance period, including:

- for each facility type and each province of importation, the compliance units created;
- for each circumstance requiring compliance units to be cancelled, the number of compliance units cancelled;
- for each province of exportation, the volumes exported and the renewable fuel feedstocks used to produce the exported renewable fuels, if known;
- for each person to whom you traded, the number of compliance units traded;
- for each person from whom you received compliance units, the number of compliance units received;
- company-wide totals of transactions (carry forward, carry back); and
- for compliance units, the monthly balance and the calculation required under subsection 19(1) of the Regulations and final balances at the end of the trading period.

In addition to the above information, you are also required to report the names of persons from whom you received, and to whom you transferred renewable fuel and biocrude, and the volume of renewable fuel and of biocrude that you own at the end of the compliance period.

*NEW X.3.1: As an elective participant, do I have to report my exports of renewable fuel or liquid petroleum fuel containing renewable fuel?*

Yes, you have to make records and report on your exports and those of any affiliate who is not a participant. Refer to item 11 of Schedule 5.

*X.4: Item 13 of Schedule 5 requires reporting of the number of compliance units owned by a participant at the end of the trading period. Subsection 25 (4) requires cancellation, at the end of the trading period, of compliance units that are neither used nor carried forward. Are such unused compliance units to be included in the number reported under item 13?*

You should report the number of compliance units owned prior to cancellation under subsection 25(4) of the unused compliance units that were not carried forward. The number of compliance units cancelled under subsection 25(4) is reported under item 10(*c*) of Schedule 5.

*X.5: Items 3 and 4 require reporting on mobile blending facilities by province*.

*(a) What is a mobile facility?*

A mobile blending facility described in the definition of "blending facility". It includes cargo tankers, railway cars, boats, marine vessels and any other type of mobile facility in which blending occurs.

*(b) I own a fleet of cargo tankers. Blending in any of these tankers may be done one day in one province, and the next day in a different province. How do I report on my fleet?*

You report based on the province in which blending occurs.

*(c) I own a fleet of 100 cargo tankers, but only blend in 10 of them. Under item 3 (a) or 4 (a), do I report the number of mobile facilities as 10, or as 100?*

You would report 10 mobile blending facilities.

*X.6: Why am I required to report the names of persons from whom I acquired renewable fuel or biocrude and to whom I transferred ownership of renew able fuel or biocrude, and associated volumes?*

This information is important for Environment Canada to be able to monitor the distribution of renewable fuels, as compliance verification for these Regulations is based primarily on records, reporting and auditing.

*X.7: Is there a format specified for the report?*

Under section 27 of the Regulations, reports must be in the form and format specified by Environment Canada. If an electronic format and format are specified, they must be used, unless there are circumstances beyond your control that make it impractical for you to do so. (This would be assessed on a case-by-case basis.) If no electronic form and format have been specified, the report must be sent on paper

Environment Canada will notify participants if and when a form and format are specified. Note that if a form and format are specified for the compliance unit account book under subsection 31(5), then a copy of it must be submitted as part of the annual report (refer to item 15 of Schedule 5).

*X.8: When is the annual report due?*

No later than April 15 – which is 15 days after the end of the trading period. The first annual report (covering the period December 15, 2010 to December 31, 2012) is due by April 15, 2013. The subsequent annual reports cover compliance periods and are due by April 15 following the end of the compliance periods.

An interim report covering the period December 15, 2010 to December 31, 2011 is due by April 15, 2012 (refer to section 39).

*X.9: Why must I report for each facility when my compliance is based on company-wide totals of compliance units?*

Although compliance by the primary supplier is based on company-wide pools, the creation of compliance units and tracking of volumes of fuel is done at a facility level. Facility-level data can be compared to similar data from other sources for compliance verification and enforcement purposes.

*X.10: Do I have to report if I did not make any transactions with compliance units (creation, cancellation, trade, carried forward or carried back) during the trading period for a compliance period?*

No, you do not have to submit a report under section 33, unless you are a primary supplier and not exempt under section 2 of the Regulations. Primary suppliers must create or acquire compliance units in order to comply with the renewable fuel requirements.

### *Section 34 (and Schedules 6 and 7) – Records and Reports for Producers or Importers of Renewable Fuel*

*Y.1: Why do producers and importers of renewable fuel have to register, make records and report under these Regulations? Why do I have to report on who I sold renewable fuel to?*

The registration information is to assist Environment Canada in the administration of the Regulations and in identifying and understanding the regulated community and the various facilities of the industrial sectors covered by these Regulations. The information collected through registration reports assists Environment Canada in understanding your operations and the operations of other regulated parties, and thus enables a more effective and efficient administration the Regulations. Other federal fuel Regulations have similar registration information.

The records and reports required by producers and importers of renewable fuels are important for Environment Canada in being able to monitor the distribution of renewable fuels, as compliance verification for these Regulations is based primarily on records, reporting and auditing, Records and reports by producers and importers of renewable fuel will serve as an important source of data for Environment Canada's review and assessment of primary suppliers' and elective participants' records and reports.

*NEW Y.1.1: As a producer or importer of renewable fuel, am I required to make a record of renewable fuel that is exported by a person who purchases my renewable fuel? How am I to know if that person is going to export the fuel?*

Under subparagraph 34(3)(*g*)(i) of the Regulations, you are required to make a record of whether the renewable fuel is to be exported and the province in which the fuel is located when ownership of the fuel is transferred by your sale. This information is required only if it is known.

*Y.2: Schedule 2 requires a description of the primary use of produced, blended and imported products. Why is this required and what is it intended to cover?*

This information will help identify instances where product might be used in such a way that it would not be a fuel – for example, as feedstock to a chemical plant. Such blended product is not intended to created compliance units. The description should identify the primary use as "for fuel", or some other specified use.

*Y.3: As a producer or importer of renewable fuel, when do I have to submit the registration report?*

Your registration report, under subsection 34(1) of the Regulations, is due at least one day before your combined production and importation exceeds 400 $m^3$ of renewable fuel during any continuous 12-months of a compliance period Effectively this means:

- For existing large-volume producers or importers of renewable fuel, on or before December 14, 2010.
- For new large-volume producers or importers of renewable fuel, at least one day before commencing operations.
- For existing and new small-volume producers or importers of renewable fuel, at least one day before their combined production and importation exceeds 400 $m^3$ of renewable fuel.

The provision is written in this way so that small-volume producers and importers (producer and importer of less than 400 $m^3$ combined per year) are not required to register until they exceed the small volume threshold.

*REVISED Y.4: What happens if the information I submitted in my registration report changes?*

If the registration information changes, other than the information in items 1(*b*) and (*c*) of Schedule 6 of the Regulations (the contact information), you must submit a notice to Environment Canada that updates the changed information. This must be done no later than five days after the change. This requirement and the timing for the notice are the same as in other federal fuel Regulations. If you do not submit the updated data by this time, you would be in contravention of the Regulations.

As of August 28, 2011, information regarding the company name and address (item 1(a)) is required to be updated. This is to facilitate Environment Canada tracking the company's information in its database.

*REVISED Y.5: What information is required when I register a new renewable fuel production facility?*

You must provide the information listed in Schedule 6. If, because the facility has just begun operations, there is no volumetric data for the previous year, then you would enter a zero for that information.

*Y.6: What information must I record in the records required by these Regulations?*

The information required to be recorded by producers or importers of renewable fuel is set out in subsection 34(3) of the Regulations.

*Y.7: When is the annual report due?*

No later than February 15. The first annual report (covering the period December 15, 2010 to December 31, 2012) is due by February 15, 2013. The subsequent annual reports cover compliance periods and are due by February 15 following the end of the compliance period.

An interim report covering the period December 15, 2010 to December 31, 2011 is due by February 15, 2012 (refer to section 39).

*Y.8: Why is the deadline for the submission of my annual report (February 15) earlier than the date for submission of annual reports by others (April 15)?*

Annual reports by trading system participants have a later submission date because of the trading period, which ends on March 31. Producers and importers of renewable fuels need not participate in the trading system and so are not constrained by the trading period. The date of February 15 for producers and importers of renewable fuels is the same reporting date as in other federal fuel Regulations.

*Y.9: Why do I have to submit a report for each gasoline compliance period, but not each distillate compliance period?*

A producer or importer of renewable fuel must submit the report for each gasoline compliance period, which means for each calendar year (except for the first compliance period). This specificity is to provide clarification as to the period the report covers, as renewable fuel producers have no requirements for renewable fuel content and are not otherwise linked to any specific compliance period.

*Y.10: If I am a primary supplier or elective participant but also produce or import renewable fuel, do I have to report and make records under section 34 of the Regulations?*

Yes, you do.

*Y.11: As a renewable fuel producer or importer, do I have to have a third-party audit each compliance period?*

Yes, unless:

- pursuant to section 28(3) you demonstrate that no compliance units were created from the renewable fuel that you produced or imported during the compliance period; or
- subsection 2(4) of the Regulations applies for that year; that is, for that compliance period you are:

- a small-volume producer and importer of renewable fuel and not a primary supplier
- a small-volume producer and importer of renewable fuel and a small-volume primary supplier, or
- a small-volume producer and importer of renewable fuel and a primary supplier of only specialty-use fuels.

*Y.12: Why do I have to submit an auditor's report?*

Independent audits by accredited third-parties are vital in helping to ensure to the Government (and indirectly to individual participants) that the integrity of the trading system is upheld and in helping to validate compliance units created and traded. Third-party audits are a standard feature of federal fuel Regulations that are based on annual compliance.

The records and reports of producers and importers of renewable fuel serve as an important source of data for Environment Canada's review of the records and reports of primary suppliers and elective participants. Therefore, it is important that the records and reports of producers and importers of renewable fuel are—and are seen to be—accurate sources of information on the distribution of renewable fuels in Canada.

### *Section 35 (and Schedule 8) – Report on Measurement Methods*

*Z.1: Who must report under section 35 of the Regulations?*

All persons who have to submit a registration report must also submit the report on measurement methods. These persons are primary suppliers, elective participants, and producers and importers of renewable fuels.

*Z.2: What information must be reported?*

The information required to be reported is set out in Schedule 8 of the Regulations. This information describes how a person is going to determine the volumes of their fuels at each of their facilities and for each of the provinces into which they import.

*Z.3: Item 4(b) of Schedule 8 is "a description of how the batch of fuel is identified" at a facility. What am I expected to submit for this?*

A batch is "*an identifiable quantity of liquid fuel, with a single set of physical and chemical characteristics*." Depending on the individual circumstances surrounding the production of the batch, it may be as small as a single compartment tank within a tanker truck or as large as a

pipeline shipment. Descriptions will vary and will depend on individual circumstances. A description could be, for example, the tank of a tanker truck, one or more tanks within a ship, or as measured at a particular point in a refinery as the fuel is dispatched through a pipeline.

*Z.4: I am an importer. I get bills of lading from the terminal in the U.S. where I pick up fuel that includes the fuel volume for each batch that I import. I have no information on how that volume was determined. What information should I provide for Schedule 8? What do I do if I cannot get any information on measurements from the terminal operator?*

You are required to provide the information in Schedule 8 and must make all reasonable efforts to obtain it.

*Z.5: Is there a format for the report?*

Under section 27 of the Regulations, reports must be in the form and format specified by Environment Canada. If an electronic format and format are specified, they must be used, unless there are circumstances beyond your control that make it impractical for you to do so. (This would be assessed on a case-by-case basis.) If no electronic form and format have been specified, the report must be sent on paper. Environment Canada will notify participants if and when a form and format are specified.

*Z.6: Why is the report on measurement methods necessary?*

Volumes of fuels are the regulated parameter for these Regulations and their reported volumes are the basis for compliance. Although volumes are expected to be already measured very accurately by regulatees for commercial reasons, there are many ways of measuring volumes, depending on individual circumstances. Environment Canada's enforcement officers must know how the volumes are being measured by each regulatee under each individual circumstance. This one-time report provides that information.

*Z.7: When do I have to submit this report? Can it be submitted at the same time as my registration report?*

The report must be submitted by the later of 180 days after the registration of the Regulations (i.e., by February 19, 2011) and the day you submit your registration report.

*Z.8: As I need to submit a report for each facility and each province of importation, can I group these reports and submit them all at once within a larger, all-encompassing report?*

Yes, you may, provided all the required information is submitted for each facility and each province of importation.

*REVISED Z.9: What happens if the information I submitted in my measurement report changes?*

If the measurement information changes, other than the information in items 1(*b*) and (*c*) of Schedule 8 of the Regulations (the contact information), you must submit a notice to Environment Canada that updates the changed information. This must be done no later than five days after the change. This requirement and the timing for the notice are the same as in other federal fuel Regulations. If you do not submit the updated data by this time, you would be in contravention of the Regulations.

As of August 28, 2011, information regarding the company name and address (item 1(a)) is required to be updated. This is to facilitate Environment Canada tracking the company's information in its database.

*Z.9: How does section 35 of the Regulations relate to the requirements for determining volumes under section 4 of the Regulations?*

Section 4 sets out the criteria for a measurement device, standard or method to be acceptable, but there are many such acceptable devices, standards and methods permitted under that section. Section 35 requires the regulatee to inform Environment Canada as to which device, standard or method is being used in each of the individual circumstances that apply to them.

*Z.11: Why does the information required for measurement locations in Canada differ from the information required for measurement locations outside Canada?*

Imports from the United States are often done via cargo tankers. Cargo tankers can pick up fuel from a variety of sources. Although the nature of the facility is known (e.g., a fuel terminal), the pick-up location (that is, the facility's address) could vary. Imports from overseas are usually off-loaded at a limited number of facilities in Canada where the volume is then measured.

*Z.12: Why must I report the frequency of the calibration of the measurement devices that I use?*

Although the device may have originally met the requirements of the *Weights and Measures Act*, it may not currently if it has not been well maintained and routinely calibrated. You must report both the frequency of the calibration and the name of the person who last calibrated the device, if any.

*Z.13: What do I report if there is no published repeatability or precision for the standard or method that I used?*

This requirement in Schedule 8 of the Regulations is prefaced with the phrase "*if known*". If there is no published repeatability or precision for the standard or method, then no such information need be reported.

*NEW Z.13.1: If I implement a new measurement technique or measure at a new place, when must I provide an update to the report required under section 35? Do I have to re-submit all the information in Schedule 8 or just the information that has changed?*

You must provide the updated information within five days after the change. You are only required to submit the updated information and not re-submit information that has not changed from the last submission. Refer to subsection 35(2).

*Z.14: What methods are acceptable for measuring the water content of biocrude?*

Such methods will depend on the refinery configuration and the nature of the biocrude, so the method will be situation-specific. A regulatee must provide detailed information on "*the methodology for measuring and subtracting [for the purposes of subsection 4(3) of the Regulations] the water content of the biocrude*."

*Z.15: My refinery has been decommissioned sometime during the initial 180-day period of the Regulations. Must I still submit a report on measurement methods? Do I have to submit other reports?*

Under subsection 35(3) of the Regulations, you are not required to submit a report on measurement methods for that refinery, but you would have to submit such a measurement report for your other production facilities. You must still submit other reports required by the Regulations in respect of the decommissioned refinery.

***Section 36 – Records and Reports for Sellers of Fuel for Export***

*AA.1: Who must report under section 36 of the Regulations?*

Any person who sells fuels for export, but who is not a primary supplier, elective participant, or producer or importer of renewable fuel is required to report under this section. It is expected that these persons will mostly be independent fuel-marketing companies. (For other regulatees, similar requirements are covered by other provisions of the Regulations.)

*AA.2: What information must be reported?*

The information to be reported is set out in subsection 36(2) of the Regulations. It includes the total volume of renewable fuel contained in a liquid petroleum fuel that is sold for export, and the total volume of renewable fuel sold for export. These totals are reported separately for each type of renewable fuel and for each province where the custody of a batch was transferred.

*AA.3: If I export a batch of petroleum fuel that does not contain any renewable fuel, do I have to make a record of it or report on it under these Regulations?*

No, you do not. Only batches of petroleum fuel that contain renewable fuel, or batches of renewable fuel, are required to be recorded and reported upon under section 36 of the Regulations.

*AA.4: Is there a format for the report?*

Under section 27 of the Regulations, reports must be in the form and format specified by Environment Canada. If an electronic form and format are specified, they must be used, unless there are circumstances beyond your control that make it impractical for you to do so. (This would be assessed on a case-by-case basis.) If no electronic form and format have been specified, the report must be sent on paper

Environment Canada will notify participants if and when a form and format are specified.

*AA.5: Why do sellers of fuel for export have to make records and submit annual reports?*

Environment Canada needs to track what is actually exported in order assess if the Regulations achieve their goal of increased use of renewable fuel in Canada. The information can be used by Environment Canada to compare to information reported by persons who are more directly implicated in the requirements of the Regulations. The records and the annual reports of these persons will be helpful in ensuring that exports are

accounted for and that the cancellation of compliance units is appropriately done by others who are involved in the trading system.

*NEW AA.5.1: When I sell fuel to a wholesaler, I do not know if the wholesaler is going to export the fuel. How do I account for this in my records of exported fuel? What do I record for a batch if I do not know whether or not it will be exported?*

If it is known that this batch of fuel will be exported then a record has to be made as per subsections 32(8), 34(3)(g) or 36(1), as the case may be. If it is not known whether this batch of fuel is to be exported or used in Canada, it must be assumed that the batch is used in Canada and records would be made accordingly.

*AA.6: If I am a primary supplier, elective participant or a producer or importer of renewable fuel, do I have to make records and submit reports under section 36 of the Regulations?*

No, you do not. The provisions of section 36 do not apply to primary suppliers, elective participants, or producers or importers of renewable fuel. Primary suppliers, elective participants, and producers and importers of renewable fuel are required to record and report exports under other provisions (i.e., sections 32, 33 and 34).

*AA.7: Why do participants report fuel actually exported, while producers and importers of renewable fuel and other sellers of fuel for export report fuel sold for export?*

Because primary suppliers have to meet the renewable fuel requirements, Environment Canada needs to track what is actually exported in order for the trading system to function as intended – fuel exported may be subtracted from the primary supplier's pool under paragraph 6(4)(*i*) of the Regulations. However, for renewable fuel producers and importers and sellers of fuel for export, there is no need to obtain such information; it is sufficient to only report the fuel sold for export, since they are not subject to the prescribed requirements in section 5 of the Regulations, nor do they have to calculate a pool under section 6.

*AA.8: As a producer or importer of renewable fuel who also sells renewable fuel for export, do I have to keep two sets of records or submit two reports?*

No, you do not. Section 36 does not apply to you. Your requirements for recording and reporting on renewable fuel that you export are set out in section 34 of the Regulations.

*AA.9: Why don't sellers of fuel for export have to submit a registration report or an auditor's report?*

These persons, who are likely to be independent fuel marketing companies, are providing information that can be used by Environment Canada to compare to information reported by persons who are more directly implicated in the requirements of the Regulations. The records and the annual reports of these persons will be helpful in ensuring that exports are accounted for and that the cancellation of compliance units is appropriately done by others who are involved in the trading system. In order to avoid unwarranted administrative burden on these parties, registration and third-party audits are not required of them.

*AA.10: If the fuel that I sold for export is neither a renewable fuel nor a liquid petroleum fuel that contains any renewable fuel, do I still have to report under section 36?*

No, you do not.

*AA.11: Why is there no schedule attached to the Regulations setting out the information required in the annual report for section 36 of the Regulations?*

All the information that is needed to be reported is specified in subsection 36(2). Because there is not a lot of information required, a detailed schedule was not developed.

*AA.12: When is the annual report on fuel sold for export due?*

No later than February 15. The first annual report (covering the period December 15, 2010 to December 31, 2012) is due by February 15, 2013. The subsequent annual reports cover compliance periods and are due by February 15 following the end of the compliance period.

An interim report covering the period December 15, 2010 to December 31, 2011 is due by February 15, 2012 (refer to section 39).

*AA.13: Why is the deadline for the submission of my annual report (February 15) earlier than the date for submission of other annual reports (April 15)?*

Annual reports by trading system participants have a later submission date because of the trading period which ends on March 31. Persons reporting under section 36 do not participate in the trading system and so are not constrained by the trading period. The date of February 15 is the same reporting date as in other federal fuel Regulations.

*AA.14: Why do I have to submit a report for each gasoline compliance period, but not each distillate compliance period?*

A seller of fuel for export must submit the report for each gasoline compliance period, which means for each calendar year (except for the first compliance period). This specificity is to provide clarification as to the period the report covers, as sellers of fuel for export have no requirements for renewable fuel content and are not otherwise linked to any specific compliance period.

*AA.15: Why is the threshold value of 1000 $m^3$ per compliance period in section 36 of the Regulations different from the more widely applied threshold value of 400 $m^3$ per year in section 2 of the Regulations?*

If you sell less than 1000 $m^3$ of renewable fuel or of liquid petroleum fuel that has renewable fuel content for export in a gasoline compliance period, these requirements do not apply to you.

This is a higher threshold than the 400 $m^3$ per year for producers and importers. The 400 $m^3$ per year threshold for producers and importers is specified in subsection 140(3) of the *Canadian Environmental Protection Act, 1999*. Sellers of fuel for export, who are not producers or importers of fuel, are not subject to that threshold value, as specified in the Act.

Nevertheless, Environment Canada believes a threshold value is warranted to avoid undue administrative burden on sellers of small volumes for export and chose a threshold of 1000 $m^3$ per compliance period.

*AA.16: Why is the threshold value of 1000 $m^3$ determined over a gasoline compliance period instead of over a calendar year?*

If you sell for export less than 1000 $m^3$ of renewable fuel or of liquid petroleum fuel that has renewable fuel content during a gasoline compliance period, these requirements do not apply to you.

Except for the first gasoline compliance period, a gasoline compliance period is identical to a calendar year (January 1 to December 31). The first gasoline compliance period is 24 ½ months, from December 15, 2010 to December 31, 2012. During that period, the threshold of 1000 $m^3$ is more restrictive due to the longer period over which it is applied. This longer period will ensure that exports can be more closely monitored during the critical introductory period of the Regulations.

*NEW AA.16.1: When does the period start for the determination of the 1000 $m^3$ threshold for sales of exports?*

It starts at the beginning of each gasoline compliance period, with the first one starting on December 15, 2010 for all fuels.

*AA.17: Why is the information required by the province in which the batch was located when the ownership of the batch was transferred?*

Environment Canada intends to track exports, including from which province the fuel is exported. A sale of fuel can take place between companies that are located in two different provinces, involving fuel that is located in a third province. Environment Canada is interested in the actual location of the fuel at the time of sale, not the location of the headquarters of the two companies involved in the transaction.

*AA.18: If records and reports on sales are acceptable for exports, why can't the sales concept be expanded to a sales-volume basis for the rest of the regulated requirements, so as to harmonize the federal Regulations with the provincial Regulations?*

The federal Regulations are made under the *Canadian Environmental Protection Act, 1999*, which sets out the authorities to regulate fuels. Working within these authorities, and also considering product exchanges and transactions within the petroleum industry across all of Canada and the multiple refinery orbits covered in a national regulation, the sales approach was not considered to be viable for the federal Regulations.

The information gathered on fuel sold for export by sellers (who are not primary suppliers, elective participants, or producers or importers of renewable fuels) will be used as a check on the cancellation of compliance units for liquid petroleum fuel containing renewable fuel that was exported.

*AA.19: I am a vehicle manufacturer and export many vehicles each a year. The fuel in their fuel tanks contains renewable fuel content. Do I need to report the volumes of this fuel under section 36?*

No, you do not. The requirements in section 36 apply to persons who sell fuel for export, not to those who actually export the fuel.

### *Sections 37 and 38 – Record-making and retention of Information*

*BB.1: When must I make a record?*

You must make a record "*as soon as is feasible but not later than 15 days after the information to be recorded becomes available*."

*BB.2: What if it is not "feasible" to make a record within 15 days?*

You must make the record no later than 15 days after the information to be recorded becomes available. It is anticipated that records will, in most circumstances, be made very shortly after the information becomes available. However, the 15-day limit provides for circumstances that may necessitate a few extra days to make the record.

*BB.3: What do I do if I discover a clerical error in my records or there is an accounting rebalance after the 15-day period?*

The Regulations require that records be made "*as soon as feasible but no later than 15 days after the information to be recorded becomes available*." If an error is discovered, it should be corrected as soon as practicable.

*BB.4: Must I inform Environment Canada twice as to the location of where I am keeping my records, once under subsection 38(1) of the Regulations and once in my registration report?*

No, you do not have to submit the information twice. The information provided under your registration report will suffice for the purposes of subsection 38(1).

Section 38 ensures that persons not required to submit a registration report who keep their records at a place other than their principal place of business in Canada provide Environment Canada with the civic address where their records are kept.

*BB.5: Do I have to keep all my supporting documentation for five years after it is made?*

Yes, you do.

*BB.6: If my principal place of business is in another country, can I keep my records in that other country?*

No, you cannot. All records made for the purposes of these Regulations and their supporting documentation must be kept at a location in Canada.

*NEW BB.6.1: I am a company based in the U.S. Can I keep copies of record in Canada or do I have to keep the originals? If my records and copies are accessible via a computer terminal in Canada, will that suffice?*

Records required under the Regulations must be maintained at a place in Canada where they can be inspected by Environment Canada's enforcement officers immediately upon request. Records may be kept on a computer, provided they are immediately accessible.

***Section 39 – Interim Reports***

*CC.1: Why is Environment Canada requiring interim reports?*

The first gasoline compliance period is 24 ½ months in duration – more than twice the other gasoline compliance periods. The interim reports, due in early 2012, will provide useful and timely information during the critical implementation stage and will help identify potential implementation issues. The preparation of these reports will also help regulatees develop their reporting practices and procedures for the later annual reports.

*CC.2: What period does the interim reports cover?*

The interim reports cover the period December 15, 2010 to December 31, 2011.

*CC.3: How does the interim report relate to the first annual reports?*

The interim reports cover the interim period December 15, 2010 to December 31, 2011, while the first annual report covers the entire period December 15, 2010 to December 31, 2012.

*CC.4: Am I required to submit an interim report if I did not produce fuel during the interim period, but did produce fuel during the remainder of the first gasoline compliance period.*

No, you are not. If you did not produce or import fuel during the interim period, you are not required to submit an interim report.

*CC.5: Will the interim report be used to assess my compliance* with the renewable fuel requirement*?*

No. Because the first compliance period has not finished, the interim reports cannot be used to assess compliance with the renewable fuel requirement.

*CC.6: When are the reports due?*

The interim reports for sections 30 and 33 are due by April 15, 2012, while the interim reports for subsections 34(4) and 36(2) are due by February 15, 2012.

***Section 40 – Coming into Force***

*DD.1: Many provisions of the Regulations come into effect upon registration. When were the Regulations registered?*

August 23, 2010.

*NEW DD.1.1: Many provisions of the 2011 amendments come into effect upon registration. When were the amendments registered?*

June 29, 2011.

*DD.2: Some provisions of the Regulations refer to a day that is 180 days after registration of the Regulations. When is that?*

February 19, 2011.

*DD.3: Why do the provisions for registration reports come into force prior to the requirements for renewable fuel in gasoline and the provisions of the trading system?*

It is necessary to have registration information as soon as possible, so that Environment Canada can target compliance promotion activities.

*DD.4: When does the requirement for renewable fuel in gasoline come into force?*

December 15, 2010.

*REVISED DD.5: When does the requirement for renewable fuel in diesel fuel and heating distillate oil come into force?*

July 1, 2011.

*REVISED DD.6: Repealed.*

*REVISED DD.7: Repealed.*

*REVISED DD.8: When do the various sections come into force?*

A table summarizing the coming-into-force dates is provided below.

| Section or subsection | Description | Upon registration of these Regulations (August 23, 2010) | December 15, 2010 | July 1, 2011 |
|---|---|---|---|---|
| **1** | **Interpretation (definitions)** | √ | | |
| **2** | **Application** | √ | | |
| **3** | **Special opt-in provisions** | √ | | |
| **4** | **Measurement of volumes** | √ | | |
| 5(1) | Renewable fuel requirement (gasoline) | | √ | |
| *5(2)* | *Renewable fuel requirement (distillate)* | | | √ |
| 6 | Gasoline and distillate pools | | √ | |
| 7 | Compliance units (definition and use) | | √ | |
| 8 | Calculation of renewable fuel | | √ | |
| **9** | **Registration as a primary supplier (PS)** | √ | | |
| **10** | **Participants (definition)** | √ | | |
| **11** | **Election to become an elective participant** | √ | | |
| 12 | Creator of compliance units (CUs) | | √ | |
| 13 | Creation of CUs – blending | | √ | |
| 14 | Creation of CUs – imports | | √ | |
| 15 | Creation of CUs – biocrude | | √ | |
| 16 | Creation of CUs – neat renewable fuel | | √ | |
| 17 | Limitations on creation of CUs | | √ | |
| 18 | Ownership of CUs | | √ | |
| 19 | Maximum number of CUs owned | | √ | |
| 20 | Trading of CUs | | √ | |
| 21 | Carry forward of CUs – PS's gasoline | | √ | |
| 22 | Carry forward of CUs – PS's distillate | | √ | |
| 23 | Carry forward of CUs – Elective participant | | √ | |
| 24 | Carry back of CUs | | √ | |
| 25 | Cancellation of CUs | | √ | |
| **26** | **Request of samples and records** | √ | | |
| **27** | **Format of reports** | √ | | |
| 28 | Auditor's report | | √ | |
| 29 | Records – primary supplier | | √ | |
| 30 | Annual report – primary supplier | | √ | |
| 31 | Compliance unit account book – participant | | √ | |
| 32 | Additional records – participant | | √ | |
| 33 | Annual report – participant | | √ | |

| | | | | |
|---|---|---|---|---|
| **34(1), (2)** | **Registration as RF producer or importer** | √ | | |
| 34(3), (4) | Records/reports – RF producers/ importers | | √ | |
| **35** | **Report on measurement methods** | √ | | |
| 36 | Records/report for sellers for export | | √ | |
| **37** | **Record-making** | √ | | |
| **38** | **Retention of information** | √ | | |
| 39 | Interim reports | | √ | |
| **40** | **Coming into force** | √ | | |

*DD.9: What provisions apply to persons undertaking various activities?*

The table below summarizes this information.

| Section | Description | Primary supplier | Elective participant | RF producer or importer | Seller for export (*) | Small-volume regulatee (**) |
|---|---|---|---|---|---|---|
| 1 | Interpretation (definitions) | √ | √ | √ | √ | √ |
| 2 | Application | √ | | √ | | √ |
| 3 | Special opt-in provisions | √ | | √ | | √ |
| 4 | Measurement of volumes | √ | √ | √ | √ | √ |
| 5 | Renewable fuel requirement | √ | | | | |
| 6 | Gasoline and distillate pools | √ | | | | |
| 7 | Compliance units (definition and use) | √ | | | | |
| 8 | Calculation of renewable fuel | √ | | | | |
| 9 | Registration as a primary supplier (PS) | √ | | | | |
| 10 | Participants (definition) | √ | √ | | | |
| 11 | Election to become an elective participant | | √ | | | |
| 12 | Creator of compliance units (CUs) | √ | √ | | | |
| 13 | Creation of CUs – blending | √ | √ | | | |
| 14 | Creation of CUs – imports | √ | √ | | | |
| 15 | Creation of CUs – biocrude | √ | √ | | | |
| 16 | Creation of CUs – neat renewable fuel | √ | √ | | | |
| 17 | Limitations on creation of CUs | √ | √ | | | |
| 18 | Ownership of CUs | √ | √ | | | |
| 19 | Maximum number of CUs owned | √ | | | | |
| 20 | Trading of CUs | √ | √ | | | |
| 21 | Carry forward of CUs – PS's gasoline | √ | | | | |
| 22 | Carry forward of CUs – PS's distillate | √ | | | | |
| 22.1 | Carry forward into first distillate compliance period | √ | | | | |
| 23 | Carry forward of CUs – Elective participant | | √ | | | |
| 24 | Carry back of CUs | √ | | | | |
| 25 | Cancellation of CUs | √ | √ | | | |
| 26 | Request of samples and records | √ | √ | √ | √ | √ |
| 27 | Format of reports | √ | √ | √ | √ | √ |
| 28 | Auditor's report | √ | √ | √ | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| 29 | Records – primary supplier | √ | | | | some |
| 30 | Annual report – primary supplier | √ | | | | |
| 31 | Compliance unit account book – participant | √ | √ | | | |
| 32 | Additional records – participant | √ | √ | | | |
| 33 | Annual report – participant | √ | √ | | | |
| 34 | Provisions for RF producer or importer | | | √ | | |
| 35 | Report on measurement methods | √ | √ | √ | | |
| 36 | Records/report for sellers for export | | | | √ | |
| 37 | Record-making | √ | √ | √ | √ | √ |
| 38 | Retention of information | √ | √ | √ | √ | √ |
| 39 | Interim reports | √ | √ | √ | √ | |
| 40 | Coming into force | √ | √ | √ | √ | √ |

* Sellers of export of liquid petroleum containing renewable fuel who are not primary suppliers, elective participants, or producers or importers of renewable fuel.

** Primary suppliers, or producers or importers of renewable fuel, who produce or import less than 400 $m^3$ per year, provided they have not opted into the Regulations under section 3 – in which case all the relevant provisions to that person would apply.

## REPORTING DEADLINES AND OTHER REPORTING ISSUES

*REVISED EE.1: Where must I submit my reports?*

All reports submitted under these Regulations are to be submitted to the regional office of Environment Canada in which region the regulatee has its corporate headquarters in Canada. If you do not have corporate headquarters in Canada, the report should be sent to the regional office of Environment Canada in which you predominantly import, produce, or create compliance units, as the case may be. In the case where an electronic reporting system has been developed, all reports are to be submitted in accordance with the instructions for that system.

The addresses of Environment Canada's regional offices are listed below:

## ADDRESSES OF ENVIRONMENT CANADA'S REGIONAL OFFICES

| **Newfoundland and Labrador, Nova Scotia, New Brunswick and Prince Edward Island** | **Manitoba, Saskatchewan, Alberta, Northwest Territories and Nunavut** |
|---|---|
| Regional Director<br>Environmental Enforcement Division<br>Enforcement Branch – Atlantic<br>Environment Canada | Regional Director<br>Environmental Enforcement Division<br>Enforcement Branch – Prairie & Northern |

| | |
|---|---|
| 45 Alderney Drive<br>16th floor, Queens Square<br>Dartmouth, Nova Scotia B2Y 2N6<br>**Fax: 902-426-7924** | Environment Canada<br>Room 200<br>4999 - 98th Avenue NW<br>Edmonton, Alberta T6B 2X3<br>**Fax: 780-495-2451** |
| **Quebec**<br><br>Regional Director<br>Environmental Enforcement Division<br>Enforcement Branch – Quebec<br>Environment Canada<br>105, McGill Street 7th floor<br>Montréal, Quebec H2Y 2E7<br>**Fax: 514-496-2087** | **British Columbia and Yukon**<br><br>Regional Director<br>Environmental Enforcement Division<br>Enforcement Branch - Pacific & Yukon<br>Environment Canada<br>401 Burrard Street, Suite 201<br>Vancouver, B.C. V6C 3S5<br>**Fax: 604-666-9059** |
| **Ontario**<br><br>Regional Director<br>Environmental Enforcement Division<br>Enforcement Branch – Ontario<br>Environment Canada<br>845 Harrington Court, Unit #3<br>Burlington, Ontario L7N 3P3<br>**Fax: 905-333-3952** | |

**ADDRESS FOR ENVIRONMENT CANADA HEADQUARTERS**

**Fuels Section**

Oil, Gas and Alternative Energy Division
Environment Canada
351 St. Joseph Blvd, 12th floor
Gatineau, Quebec K1A 0H3
**Fax: 819-953-8903**

*EE.2: Who has to sign the reports submitted under the Regulations?*

Refer to question S.4.

*EE.3: Will the data that I report be kept confidential by Environment Canada?*

In the past, Environment Canada has treated facility-specific and company-specific data on fuel volumes as confidential information, and it plans to continue that approach, subject to the provisions, limitations and exclusions of the *Canadian Environmental Protection Act, 1999* and the *Access to Information Act*.

*NEW EE.3.1: Does Environment Canada intend to produce an annual summary report on the Renewable Fuels Regulations, as it does for other federal fuel Regulations?*

Yes, starting after the interim reports are submitted (i.e., some time after April 2012).

*EE.4: Why doesn't Environment Canada attempt to maximize the use of existing information, and avoid unnecessary duplication?*

The information collected under the *Renewable Fuels Regulations* is tailored to the requirements of these Regulations. The requirements for information on production and importations although similar to other Regulations, may vary in terms of volumes that are required to be included in, or permitted to be excluded from, the pools. Also, initially there are differences in compliance periods. Finally, all the information on renewable fuel and compliance units is unique to the *Renewable Fuels Regulations*.

*EE.5: Why don't the reporting deadlines in the Regulations align with provincial deadlines under their renewable fuels Regulations?*

Most provincial reporting deadlines are March 31. Under the federal *Renewable Fuels Regulations*, the reporting deadline for primary suppliers and elective participants is April 15. This allows an additional 15 days to make the necessary records and prepare the report after the trading period ends on March 31.

The deadline for the submission of the auditor's report is June 30, which permits the auditor time to review the person's submitted reports. There are no corresponding audit requirements under provincial Regulations. The deadline for reports by producers or importers of renewable fuel and by sellers of fuel for export is February 15. These regulatees do not participate in the trading system so are not constrained by the trading period's end-date of March 31. The date of February 15 is the same reporting date as in other federal fuel Regulations.

*<u>REVISED EE.6</u>: When do the various reports have to be submitted and by whom?*

A table summarizing reporting requirements is provided below.

| Report | Person that must report | Regulatory provision | Information to be reported | Deadlines for one-time reports [1, 2] | Deadlines for annual reports [3] |
|---|---|---|---|---|---|
| Registration (one-time) | Primary supplier | 9 | The information set out in Schedule 1 (including information in Schedule 2) | One day before 400$^{th}$ $m^3$ is produced and/or imported | |
| Registration (one-time) | Elective participants | 11 | The information set out in Schedule 2 | One day before creation of compliance units | |
| Registration (one-time) | Producer or importer of renewable fuel | 34(1) | The information set out in Schedule 6 | One day before 400$^{th}$ $m^3$ is produced and/or imported | |
| Measurement methods (one-time) | Primary supplier<br><br>Elective participant<br><br>Producer or importer of renewable fuel | 35 | The information set out in Schedule 8 | The later of:<br>• the day of, or prior to, registration by the person, and<br>• 180 days after the formal registration of the Regulations (i.e., by February 19, 2011) | |
| Renewable fuel (annual) | Producer or importer of renewable fuel | 34(4) | The information set out in Schedule7 | February 15, 2012 (for interim report) | February 15 (starting 2013) |
| Sales for export (annual) | A person (other than a participant, or a producer or importer of renewable fuel) who sold for | 36(2) | For each type of renewable fuel by each province where ownership was transferred:<br>• the volume, of renewable fuel sold for export | February 15, 2012 (for interim report) | February 15 (starting 2013) |

| | | | | | |
|---|---|---|---|---|---|
| | export renewable fuel, or liquid petroleum fuel with renewable fuel content | | and, if known, that volume, by type of feedstock; and<br>• the volume, of renewable fuel content in each type of liquid petroleum fuel sold for export | | |
| Compliance (annual) | Primary supplier | 30 | The information set out in Schedule 4 | April 15, 2012 (for interim report) | April 15 (starting 2013) |
| Compliance units (annual) | Primary supplier<br><br>Elective participant who created, carried forward, transferred in trade, or cancelled a compliance unit | 33 | The information set out in Schedule 5 | April 15, 2012 (for interim report) | April 15 (starting 2013) |
| Auditor's (annual) | Primary supplier<br><br>Elective participant<br><br>Producer or importer of renewable fuel | 28 | The information set out in Schedule 3 | No interim report required | June 30 (starting 2013) |

* Notes:

1. For existing operations, the one-time registration reports are due by December 14, 2010, and the one-time measurement report is due by February 19, 2011.

2. Under section 39, interim reports for the period December 15, 2010 to December 31, 2011 are due in 2012 by the specified date. There is no interim auditor's report.

3. The reports for the first gasoline and distillate periods are due in 2013 by the specified date.