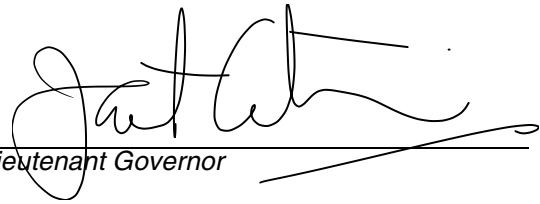


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 448

, Approved and Ordered July 30, 2020



Lieutenant Governor

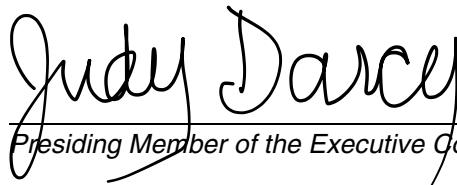
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) Parts 1, 3, except sections 17 and 18, and 4 to 7 of the *Zero-Emission Vehicles Act*, S.B.C. 2019, c. 29, are brought into force,
- (b) the Zero-Emission Vehicles Regulation set out in the attached Schedule 1 is made, and
- (c) effective November 1, 2020,
 - (i) sections 17 and 18 of the *Zero-Emission Vehicles Act* are brought into force, and
 - (ii) the Zero-Emission Vehicles Regulation is amended as set out in the attached Schedule 2.



Minister of Energy, Mines and Petroleum Resources



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Zero-Emission Vehicles Act*, S.B.C. 2019, c. 29, ss. 42, 43 (a) to (c), 44, 45 and 48

Other:

R30378824

SCHEDULE 1

ZERO-EMISSION VEHICLES REGULATION

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PART 1 – DEFINITIONS AND PRESCRIBED CLASSES

Definitions

- 1** In this regulation:

“**Act**” means the *Zero-Emission Vehicles Act*;

“**battery electric vehicle**” or “**BEV**” means a zero-emission vehicle that

- (a) is propelled solely by an electric motor that is powered solely by a battery that is charged solely by an external electricity source, and
- (b) has a minimum EPA range of 80.47 km;

“**battery electric vehicle – short range**” or “**BEV – short**” means a zero-emission vehicle that

- (a) is propelled solely by an electric motor that is powered solely by a battery that is charged solely by an external electricity source, and
- (b) has an EPA range of less than 80.47 km;

“EPA” means the United States Environmental Protection Agency;

“extended range electric vehicle” or **“EREV”** means a zero-emission vehicle

- (a) that has a battery that can be charged by an external electricity source,
- (b) whose drive wheels are propelled solely by an electric motor,
- (c) whose on-board internal combustion engine is used solely as a generator to charge the battery, and
- (d) that has a minimum EPA range of 121 km;

“extended range electric vehicle – medium range” or **“EREV – medium”** means a zero-emission vehicle

- (a) that has a battery that can be charged by an external electricity source,
- (b) whose drive wheels are propelled solely by an electric motor,
- (c) whose on-board internal combustion engine is used solely as a generator to charge the battery, and
- (d) that has a minimum EPA range of 16 km and a maximum EPA range of 121 km;

“extended range electric vehicle – short range” or **“EREV – short”** means a zero-emission vehicle

- (a) that has a battery that has can charged by an external electricity source,
- (b) whose drive wheels are propelled solely by an electric motor,
- (c) whose on-board internal combustion engine is used solely as a generator to charge the battery, and
- (d) that has an EPA range of less than 16 km;

“fuel cell electric vehicle” or **“FCEV”** means a zero-emission vehicle that

- (a) is propelled solely by an electric motor that is powered solely by a hydrogen fuel cell, and
- (b) has a minimum EPA range of 80.47 km;

“fuel cell electric vehicle – short range” or **“FCEV – short”** is a zero-emission vehicle that

- (a) is propelled solely by an electric motor that is powered solely by a hydrogen fuel cell, and
- (b) has an EPA range of less than 80.47 km;

“gross vehicle weight rating” has the same meaning as in section 1 of the Motor Vehicle Act Regulations;

“light-duty motor vehicle” means a motor vehicle with a gross vehicle weight rating of 3 856 kg or less;

“plug-in hybrid electric vehicle” or **“PHEV”** means a zero-emission vehicle that

- (a) has a battery that is capable of being charged by an external electricity source,

- (b) can be propelled solely by an electric motor that is powered by a battery,
- (c) has a minimum EPA range of 16 km, and
- (d) is not a BEV or a BEV-short;

“plug-in hybrid electric vehicle – short range” or **“PHEV – short”** means a motor vehicle that

- (a) has a battery that is capable of being charged by an external electricity source,
- (b) can be propelled solely by an electric motor that is powered by a battery,
- (c) has an EPA range of less than 16 km, and
- (d) is not a BEV-short;

“EPA range” means the all-electric driving range, in kilometres, of a zero-emission vehicle,

- (a) determined in accordance with the 5-cycle test procedure set out by the EPA in the United States Code of Federal Regulations, Title 40, Chapter I, Subchapter Q, Part 600, Subparts B and C, as amended from time to time, or
- (b) the derived 5-cycle value determined in accordance with the method set out by the EPA in the United States Code of Federal Regulations, Title 40, Chapter I, Subchapter Q, Part 600, Subpart C, section 600.311-12, paragraph (j);

“US06 range” means the all-electric driving range, in kilometres, of a zero-emission vehicle, determined in accordance with the method described in section G.7.3 of the document entitled “California Exhaust Emission Standards and Test Procedures for 2018 and Subsequent Model Zero-Emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes”, incorporated by reference in the California Code of Regulations, Title 13, Division 3, Chapter 1, Article 2, section 1962.2.

Compliance date

- 2 For the purposes of the definition of “compliance date” in section 1 [*definitions*] of the Act, the prescribed date is September 30.

Definition of model year

- 3 For the purposes of paragraph (a) of the definition of “model year” in section 1 [*definitions*] of the Act, a model year, in relation to a motor vehicle, has the same meaning as in the On-Road Vehicle and Engine Emission Regulations (Canada).

Definition of motor vehicle

- 4 (1) In this section:
 - “all-terrain vehicle”** has the same meaning as in section 1 of the Off-Road Vehicle Regulation;
 - “golf cart”** has the same meaning as in section 1 of the *Motor Vehicle Act*;
 - “implement of husbandry”** has the same meaning as in section 1 of the *Motor Vehicle Act*;

“**industrial utility vehicle**” has the same meaning as in section 1 of the *Motor Vehicle Act*;

“**motorcycle**” has the same meaning as in section 1 of the *Motor Vehicle Act*;

“**neighbourhood zero-emission vehicle**” has the same meaning as “neighbourhood zero emission vehicle” in section 1 of the Motor Vehicle Act Regulations;

“**off-road side-by-side vehicle**” has the same meaning as in section 1 of the Off-Road Vehicle Regulation;

“**snowmobile**” has the same meaning as in section 1 of the Off-Road Vehicle Regulation.

(2) For the purposes of the definition of “motor vehicle” in section 1 [*definitions*] of the Act, the following classes of vehicles are prescribed:

- (a) all-terrain vehicles;
- (b) golf carts;
- (c) implements of husbandry;
- (d) industrial utility vehicles;
- (e) motorcycles;
- (f) neighbourhood zero-emission vehicles;
- (g) off-road side-by-side vehicles;
- (h) snowmobiles.

Prescribed vehicle classes

5 For the purposes of paragraph (a) of the definition of “vehicle class” in section 1 of the Act [*definitions*] and section 10 (2) (b) of the Act [*supply of ZEVs – zero or more ZEV units*], the light-duty motor vehicle class is a prescribed vehicle class.

Prescribed classes of zero-emission vehicles

- 6** (1) The following classes of zero-emission vehicles are established:
- (a) ZEV Class A, which consists of the following types of zero-emission vehicles:
 - (i) BEV;
 - (ii) EREV;
 - (iii) FCEV;
 - (b) ZEV Class B, which consists of the following types of zero-emission vehicles:
 - (i) EREV – medium;
 - (ii) PHEV;
 - (c) ZEV Class C, which consists of the following types of zero-emission vehicles:
 - (i) BEV – short;
 - (ii) EREV – short;
 - (iii) FCEV – short;
 - (iv) PHEV – short.

- (2) The classes of zero-emission vehicles established in subsection (1) are prescribed for the purposes of paragraph (a) of the definition of “ZEV class” in section 1 [definitions] of the Act.

Definition of light-duty motor vehicle

- 7 For the purposes of Part 2 of the Act, “**light-duty motor vehicle**” has the same meaning as in section 1 of this regulation.

Classes of suppliers

- 8 (1) In this section:
- “**total sales volume**” means, in relation to a reported model year,
- (a) for a supplier who has supplied for consumer sale light-duty motor vehicles of the 3 model years immediately preceding the reported model year, the average annual number of consumer sales of light-duty motor vehicles of those 3 model years, and
 - (b) for a supplier to whom paragraph (a) does not apply, the number of consumer sales of light-duty motor vehicles of the reported model year.
- (2) The following classes of suppliers are established for the purposes of the Act:
- (a) small volume supplier;
 - (b) medium volume supplier;
 - (c) large volume supplier.
- (3) A supplier is a supplier in the
- (a) small volume supplier class if the supplier has a total sales volume of less than 1 000 light-duty motor vehicles,
 - (b) medium volume supplier class if the supplier has a total sales volume of 1 000 light-duty motor vehicles or more but less than 5 000 light-duty motor vehicles, and
 - (c) large volume supplier class if the supplier has a total sales volume of 5 000 light-duty motor vehicles or more.

Prescribed class of suppliers

- 9 The small volume supplier class is a prescribed class of suppliers for the purposes of section 5 (1) [application – prescribed class of suppliers] of the Act.

PART 2 – SUPPLY OF ZEVs AND ZEV UNITS

Balance of ZEV units

- 10 For the purposes of section 10 (2) (b) [supply of ZEVs – less than zero ZEV units] of the Act, a large volume supplier must have a balance of zero or more ZEV Class A units for the light-duty motor vehicle class.

Compliance ratio – light-duty motor vehicles

- 11** For the purposes of section 11 (1) [*compliance ratio reduction – ratio does not specify ZEV class*] of the Act, the following compliance ratios are prescribed for each model year for the light-duty motor vehicle class:

Item	Model year	Compliance ratio
1	2019	0%
2	2020	9.5%
3	2021	12%
4	2022	14.5%
5	2023	17%
6	2024	19.5%
7	2025	22%
8	2026	32%
9	2027	41.5%
10	2028	51.5%
11	2029	61%
12	2030	71%
13	2031	90%
14	2032	108.5%
15	2033	127.5%
16	2034	146%
17	2035	165%
18	2036	184%
19	2037	203%
20	2038	221.5%
21	2039	240.5%
22	2040	259%

Compliance ratio – ZEV Class A vehicles

- 12** For the purposes of section 11 (2) [*compliance ratio reduction – ratio specifies ZEV class*] of the Act, the following compliance ratios are prescribed for each model year for ZEV Class A vehicles in the light-duty motor vehicle class.

Item	Model year	Compliance ratio
1	2019	0%
2	2020	6%
3	2021	8%
4	2022	10%
5	2023	12%
6	2024	14%
7	2025	16%
8	2026	23%
9	2027	29%

Item	Model year	Compliance ratio
10	2028	36%
11	2029	43%
12	2030	50%
13	2031	63%
14	2032	77%
15	2033	90%
16	2034	104%
17	2035	117%
18	2036	130%
19	2037	144%
20	2038	157%
21	2039	171%
22	2040	181%

Application for credits for consumer sales

- 13** (1) For the purposes of section 13 (2) [*issuance of credits – consumer sales*] of the Act, an application for the issuance of credits must be submitted in the form and manner required by the director and include the following:
- (a) the legal name of the supplier;
 - (b) the vehicle makes for which the supplier is the supplier;
 - (c) the address for service of the supplier;
 - (d) the address where the supplier keeps records required to be kept and maintained under the Act;
 - (e) the following information about consumer sales of zero-emission vehicles, for each vehicle make referred to in paragraph (b), each vehicle class, and each ZEV class:
 - (i) the number of consumer sales;
 - (ii) the vehicle model, vehicle identification number, model year, type of zero-emission vehicle and EPA range of each zero-emission vehicle sold or leased;
 - (iii) the US06 range of each EREV-medium or PHEV sold or leased, if any;
 - (iv) the number, by ZEV class, of credits claimed by the supplier.
- (2) For the purposes of section 13 (2) [*issuance of credits – consumer sales*] of the Act, the prescribed period of time begins on January 2, 2018 and ends on the date the application is submitted.

Issuance of credits for consumer sales

- 14** (1) The number of credits in relation to each consumer sale of a zero-emission vehicle that the director may issue to a supplier under section 13 (1) of the Act is determined in accordance with this section.
- (2) Subject to subsections (3) to (5),

- (a) the number of credits to be issued for each consumer sale of a BEV, EREV or FCEV is determined using the following formula:

$$\text{number of credits} = (R \times 0.006214) + 0.50$$

where

R = the EPA range of the zero-emission vehicle

, and

- (b) the number of credits to be issued for each consumer sale of an EREV – medium or a PHEV is determined using the following formula:

$$\text{number of credits} = (R \times 0.006214) + 0.30$$

where

R = the EPA range of the zero-emission vehicle.

- (3) Despite subsection (2) (a), the number of credits to be issued for each consumer sale of a BEV, EREV or FCEV must not exceed 4.0.
- (4) An additional 0.20 credit must be issued for each consumer sale of a zero-emission vehicle that
- (a) is an EREV – medium or a PHEV, and
 - (b) has a minimum US06 range of 16 km.
- (5) Despite subsection (2) (b), the number of credits to be issued for each consumer sale of an EREV – medium or a PHEV must not exceed
- (a) 1.10 if subsection (4) does not apply, and
 - (b) 1.30 if subsection (4) applies.
- (6) The numbers of credits determined in accordance with this section must be rounded to the second decimal place.
- (7) For certainty,
- (a) the director must not issue credits for consumer sales of ZEV Class C vehicles, and
 - (b) the director must not issue credits for consumer sales of zero-emission vehicles of a model year that precedes the model year 2019.

Issuance of credits under initiative agreement

- 15** (1) In this section, “**used ZEV**” means a zero-emission vehicle that
- (a) has been the subject of a previous retail sale or lease in any jurisdiction outside British Columbia, and
 - (b) has not been the subject of a previous retail sale or lease in British Columbia.
- (2) In deciding whether to enter into an agreement with a supplier under section 14 (2) [*issuance of credits – initiative agreements*] of the Act, the director must consider any evidence provided by the supplier that, having acted diligently to meet the requirements of section 10 (2) [*supply of ZEVs*] of the Act, the supplier is not able to do so without an agreement.

- (3) The director may only enter into an agreement under section 14 (2) of the Act in respect of the following actions:
 - (a) the retail sale or retail lease in British Columbia of used ZEVs of the following types:
 - (i) BEV;
 - (ii) EREV;
 - (iii) EREV – medium;
 - (iv) FCEV;
 - (v) PHEV;
 - (b) the retail sale or retail lease in British Columbia of zero-emission vehicles that are not light-duty motor vehicles.
- (4) The director must not issue to a supplier, pursuant to an agreement under section 14 (2) of the Act,
 - (a) for the model year 2020, a number of credits that exceeds 5% of the total of the numbers of ZEV units determined for that supplier in accordance with section 11 (1) and (2) of the Act, for that model year, and
 - (b) for all other model years, a number of credits that exceeds 5% of the total of the numbers of ZEV units determined for that supplier in accordance with section 11 (1) and (2) of the Act, for the previous model year.

Issuance of credits under purchase agreement

- 16** (1) The director must not enter into an agreement with a supplier under section 15 (2) [*issuance of credits – purchase agreements*] of the Act unless the director is satisfied that the supplier, having acted diligently to meet the requirements of section 10 (2) of the Act [*supply of ZEVs*], is not able to do so without an agreement.
- (2) For the purposes of section 15 (2) of the Act, the prescribed price is the penalty rate prescribed in section 17 of this regulation plus \$500 per credit.

PART 3 – ADMINISTRATIVE PENALTIES

Automatic administrative penalty rate

- 17** For the purposes of section 26 [*automatic administrative penalties*] of the Act, the prescribed penalty rate is \$5 000 for all model years, vehicle classes and ZEV classes.

Discretionary administrative penalties

- 18** (1) A person who has contravened the following provisions of the Act is liable to an administrative penalty under section 27 [*discretionary administrative penalties*] of the Act not exceeding \$100 000:
 - (a) section 22 [*information requests*];
 - (b) section 23 (2) [*audits*];
 - (c) section 25 (3) [*inspections*].

- (2) A person who has failed to provide information that is complete and accurate in response to a request under section 22 of the Act is liable to an administrative penalty under section 27 of the Act not exceeding \$100 000.
- (3) A person who has not complied with section 24 of the Act [*record-keeping requirements*] is liable to an administrative penalty under section 27 of the Act not exceeding \$10 000.

Notice of intent to impose administrative penalty

- 19**
- (1) Before sending a notice of administrative penalty to a person under section 23 [*notice of administrative penalty*], the director must serve the person with a notice of intent to impose an administrative penalty.
 - (2) A notice of intent to impose an administrative penalty must set out the following:
 - (a) the legal name of the person served with the notice;
 - (b) a summary description of the alleged contravention, including the provision of the Act the person is alleged to have contravened;
 - (c) the person's right to be provided with an opportunity to be heard under section 20 [*opportunity to be heard*];
 - (d) a preliminary assessment of the amount of administrative penalty that may be imposed.
 - (3) A notice of intent to impose an administrative penalty must not be served more than 3 years after the later of
 - (a) the date the alleged non-compliance to which the notice relates occurred, and
 - (b) the date evidence of the alleged non-compliance first came to the knowledge of the director.

Opportunity to be heard

- 20**
- (1) If a person who is served with a notice under section 19 [*notice of intent to impose administrative penalty*] requests, in writing, within 30 days after the date of service of the notice, an opportunity to be heard, the director must provide the person with an opportunity to be heard.
 - (2) If a person requests an opportunity to be heard in accordance with subsection (1), the director
 - (a) must conduct a written, electronic or oral hearing, or any combination of them, as the director considers appropriate, and
 - (b) may
 - (i) determine the circumstances and place in which, and the process by which, the hearing is to be conducted, and
 - (ii) specify the form and content of materials to be provided for the hearing and when the materials must be provided.
 - (3) If a person who requests an opportunity to be heard fails to appear or provide materials to the director in accordance with subsection (2), the director may

proceed without further notice to serve the person with a notice of administrative penalty under section 23 [*notice of administrative penalty*].

- (4) If, after providing a person an opportunity to be heard, the director decides not to impose an administrative penalty, the director must give the person written notice of that decision.

Defence of due diligence

- 21** The director may not serve a notice of administrative penalty on a person if the director is satisfied that the person exercised due diligence to prevent the non-compliance in respect of which an administrative penalty may be imposed.

Assessment of administrative penalty

- 22** (1) In determining the amount of an administrative penalty under section 27 [*discretionary administrative penalties*] of the Act, the director must consider the following matters, if applicable:
 - (a) the nature of the non-compliance;
 - (b) any previous non-compliance by, or administrative penalties imposed on
 - (i) the person who is the subject of the assessment,
 - (ii) if the person is an individual, a corporation for which the individual is or was a director, officer or agent, or
 - (iii) if the person is a corporation, an individual who is or was a director, officer or agent of the corporation;
 - (c) whether the non-compliance was continuous;
 - (d) whether the non-compliance was deliberate;
 - (e) the person's efforts to correct the non-compliance;
 - (f) the person's efforts to prevent recurrence of the non-compliance;
 - (g) any other matter the director considers relevant.
- (2) If a non-compliance continues for more than one day, separate administrative penalties, each not exceeding the applicable maximum administrative penalty, may be imposed for each day the non-compliance continues.

Notice of administrative penalty

- 23** A notice of administrative penalty must set out the following:
 - (a) the legal name of the person served with the notice;
 - (b) the amount of the administrative penalty;
 - (c) the reasons for the decision;
 - (d) the date by which the administrative penalty must be paid;
 - (e) acceptable methods of payment;
 - (f) the address to which payment must be sent, if applicable;
 - (g) the person's option to admit, in writing, the non-compliance and its extent under section 28 (1) (a) [*requirement to pay administrative penalties*] of the Act;

- (h) the person's right to an appeal under section 36 (2) [*appeals to the Environmental Appeal Board*] of the Act and the time limit for commencing an appeal.

Enforcement of administrative penalty

- 24** If all or a portion of an administrative penalty is not paid when it is due, the director may impose an additional penalty of up to 10% of the outstanding balance for each 14-day period that the outstanding balance remains unpaid.

Publication of names

- 25** (1) The director may publish, including by electronic means, all of the following information in respect of a supplier on whom an administrative penalty has been imposed under section 27 [*discretionary administrative penalties*] of the Act:
 - (a) the legal name of the supplier;
 - (b) the amount of the administrative penalty;
 - (c) the nature of the non-compliance, including the provision of the Act the supplier contravened.
- (2) Publication under subsection (1) may not occur until the supplier is subject to the administrative penalty under section 28 [*requirement to pay administrative penalties*] of the Act.

SCHEDULE 2

1 The Zero-Emission Vehicles Regulation is amended by adding the following Part:

PART 2.1 – REPORTING

Model year report

- 16.1** (1) For the purposes of section 17 (2) [*model year report*] of the Act, the prescribed number of days after the compliance date within which a supplier must submit a model year report to the director is 20.
- (2) For the purposes of section 17 (4) (c) [*model year report*] of the Act, a model year report must include the following additional information about consumer sales of light-duty motor vehicles:
 - (a) the number of consumer sales of light-duty motor vehicles of the 3 model years immediately preceding the reported model year;
 - (b) the model year, type of zero-emission vehicle and range for each zero-emission vehicle sold or leased.

Supplementary report

- 16.2** For the purposes of section 18 (2) [*supplementary report*] of the Act, a supplier who submits a supplementary report must submit it in the same form and manner as that required by the director for the purposes of section 17 (2) [*model year report*] of the Act.

- 2** *Section 18 is amended in subsection (1) by repealing paragraphs (a) to (c) and substituting the following:*
- (a) section 17 (2) [*model year report*];
 - (b) section 18 (1) [*supplementary report*];
 - (c) section 22 [*information requests*];
 - (d) section 23 (2) [*audits*];
 - (e) section 25 (3) [*inspections*].
- 3** *Section 18 (2) is amended by adding “in a model year report, in a supplementary report or” before “in response to a request under section 22”.*