



Environmental Protection Act
Loi sur la protection de l'environnement

ONTARIO REGULATION 535/05

ETHANOL IN GASOLINE

Consolidation Period: From March 1, 2007 to the e-Laws currency date.

Last amendment: O.Reg. 76/07.

This Regulation is made in English only.

Interpretation

1. (1) In this Regulation,

“additive” means a substance that is added to gasoline that does not materially affect its composition as gasoline, and includes metal deactivators, oxidation inhibitors, corrosion inhibitors, icing inhibitors and induction system detergents, but does not include oxygenates;

“blend” means to add oxygenates to gasoline or a blendstock;

“cellulosic ethanol” means ethanol derived solely from either or both of lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis;

“compliance year” means a calendar year in which a fuel supplier is required to comply with this Regulation;

“ethanol” means ethyl alcohol derived from renewable or recurring sources such as grain and biomass and includes the denaturant that has been added to such ethyl alcohol;

“ethanol-blended gasoline” means gasoline that contains ethanol;

“facility” means,

- (a) a site, vehicle, vessel or other place where a fuel supplier undertakes the manufacture or blending of gasoline, or
- (b) a site, vehicle, vessel or other place where gasoline is received pursuant to an inter-refiner agreement;

“fuel supplier” means a person who, in Ontario,

- (a) manufactures or blends gasoline, and uses it or sells it at wholesale or retail,
- (b) imports gasoline, and uses it or sells it at wholesale or retail, or
- (c) acquires gasoline through an inter-refiner agreement and uses it or sells it at wholesale or retail;

“gasoline” means a liquid product of petroleum that is represented or sold as gasoline or that is designed for use in a spark ignition engine, but does not include,

- (a) aviation fuel, except when used or intended to be used to generate power by means of internal combustion in a vehicle other than an aircraft,

(b) the products commonly known as diesel fuel, fuel oil, coal oil or kerosene, except when any such product is mixed or combined with gasoline, or

(c) blendstock, not sold or represented as gasoline, that is intended to be further refined or blended before sale or use as gasoline;

“import” means to import from outside Ontario;

“inter-refiner agreement” means an arrangement between refiners for the transfer of gasoline, and includes purchase and sale and product exchange;

“manufacture” means to produce gasoline, but does not include modification of gasoline solely by the addition of additives;

“Northern Ontario” means all those parts of Ontario lying north and west of the Mattawa River, Lake Nipissing and the French River and includes the Territorial District of Manitoulin. O. Reg. 535/05, s. 1 (1).

(2) This Regulation does not apply with respect to,

(a) gasoline that enters Ontario in the fuel tank of a vehicle and that is used to power that vehicle;

(b) gasoline that is imported into Ontario to be used in scientific research other than marketing research or studies of consumer preferences relating to gasoline, where the fact of the use for scientific research can be established by written evidence;

(c) gasoline that is in transit through Ontario from a place outside Ontario to another place outside Ontario, where the fact of the transit can be established by written evidence; or

(d) gasoline that is manufactured or sold for export where the fact of the manufacture or sale for export can be established by written evidence. O. Reg. 535/05, s. 1 (2).

(3) For the purposes of this Regulation, a volume of gasoline is “placed in the Ontario market” if a fuel supplier,

(a) manufactured or blended it and used it or sold it at wholesale or retail, in Ontario;

(b) imported it and used it or sold it at wholesale or retail, in Ontario; or

(c) acquired it in Ontario through inter-refiner agreement and used it or sold it at wholesale or retail in Ontario. O. Reg. 535/05, s. 1 (3).

(4) For the purposes of any calculations under this Regulation, if a volume of gasoline is placed in the Ontario market more than once, it shall only be accounted for by the fuel supplier that first placed it in the Ontario market. O. Reg. 535/05, s. 1 (4).

(5) For the purposes of this Regulation, gasoline is not sold if it is transferred from one refiner to another as the result of an inter-refiner agreement. O. Reg. 535/05, s. 1 (5).

Ethanol-blended gasoline quality

2. (1) No person shall distribute ethanol-blended gasoline for use or sale in Ontario unless the ethanol-blended gasoline meets the standards and specifications set out in Canadian General Standards Board (C.G.S.B.) document CAN/CGSB-3.511 or the American Society for Testing and Materials (A.S.T.M.) document ASTM/D5798-99, each as amended from time to time after the coming into force of this Regulation, or an equivalent set of standards and specifications that is approved in writing by the Director before the distribution of the ethanol-blended gasoline. O. Reg. 535/05, s. 2 (1).

(2) It is sufficient compliance with subsection (1) if, with respect to ethanol quality standards, the person complies with the A.S.T.M. document ASTM D4806-04a, as amended from time to time after the coming into force of this Regulation, rather than the ethanol quality standards set out in the document CAN/CGSB-3.511. O. Reg. 535/05, s. 2 (2).

(3) Where a person seeks approval for an equivalent set of standards and specifications to satisfy the requirement in subsection (1), the person shall provide the Director with whatever information, including methods and protocols for testing, that is required to satisfy the Director of the equivalency. O. Reg. 535/05, s. 2 (3).

(4) Subsection (1) is in addition to, and not in place of, any other requirements respecting gasoline quality to which the person is subject. O. Reg. 535/05, s. 2 (4).

(5) Compliance with subsection (1) shall be determined in accordance with the appropriate test methods and requirements set out in the standards provided for in subsection (1) or (2), as the case may be. O. Reg. 535/05, s. 2 (5).

(6) Subsection (1) does not apply with respect to ethanol-blended gasoline if the following conditions are satisfied:

1. The gasoline was manufactured or blended after February 22, 2007 and before March 16, 2007.
2. The person who manufactured or blended the gasoline was, at the time the gasoline was manufactured or blended, allowed a variance that,
 - i. was issued by a director under clause 36 (3) (c) of the *Technical Standards and Safety Act, 2000*, and
 - ii. relates to Appendix B of the code adoption document under Ontario Regulation 217/01 (Liquid Fuels) made under the *Technical Standards and Safety Act, 2000*.
3. The person who manufactured or blended the gasoline has provided written notice of the fact that the gasoline was manufactured or blended under the variance described in paragraph 2 to the Assistant Deputy Minister — Operations Division, Ministry of the Environment, by mailing the notice to 135 St. Clair Avenue West, 8th Floor, Toronto, Ontario, M4V 1P5 or sending it by fax to (416) 314-6396. O. Reg. 76/07, s. 1.

(7) In addition to the exemption set out in subsection (6), subsection (1) does not apply with respect to gasoline manufactured or blended by Petro-Canada after February 22, 2007 and before the date on which Ontario Regulation 76/07 came into force. O. Reg. 76/07, s. 1.

Ethanol content

3. (1) Subject to the other provisions of this Regulation, every fuel supplier shall ensure that gasoline that it places in the Ontario market in a compliance year contains, on average, no less than 5 per cent ethanol by volume. O. Reg. 535/05, s. 3 (1).

(2) Whether or not a fuel supplier is in compliance with subsection (1) shall be determined after applying any rules or calculations provided for in this Regulation. O. Reg. 535/05, s. 3 (2).

(3) In calculating whether a fuel supplier is in compliance with subsection (1) for the purposes of 2007, 2008 and 2009 compliance years, gasoline distributed from or sold in Northern Ontario in the compliance year may be deducted from the total amount of gasoline placed in the Ontario market in the same compliance year in accordance with the compliance formula set out in section 4, if the fuel supplier so elects and can establish by written evidence that the gasoline was distributed from or sold in Northern Ontario. O. Reg. 535/05, s. 3 (3).

(4) In calculating whether a fuel supplier is in compliance with subsection (1) in a compliance year, gasoline placed in the Ontario market for the purposes of generating power in aircraft, marine vessels or equipment, off-road vehicles or equipment, or vehicles manufactured prior to 1980 may be deducted from the total amount of gasoline placed in the Ontario market in the same compliance year in accordance with the compliance formula set out in section 4, if the fuel supplier so elects and can establish by written evidence that the gasoline was distributed for those purposes. O. Reg. 535/05, s. 3 (4).

Determination of compliance

4. (1) The following formula shall be used to calculate whether a fuel supplier is in compliance with subsection 3 (1):

$$x = ([C + (C1 \times 2.5)] + D - E) / (A + B - F - G) \times 100$$

where,

“x” is the calculated annual average ethanol content in ethanol-blended and non-ethanol-blended gasolines that the fuel supplier placed in the Ontario market in the compliance year, expressed as a percent,

“A” is the volume of ethanol-blended gasolines that the fuel supplier placed in the Ontario market in the compliance year,

“B” is the volume of non-ethanol-blended gasolines that the fuel supplier placed in the Ontario market in the compliance year,

“C” is the volume of non-cellulosic ethanol that is contained in “A”,

“C1” is the volume of cellulosic ethanol contained in “A”,

“D” is the calculated volumes of ethanol from ethanol-blended gasolines transferred from the records of other fuel suppliers within the same compliance year,

“E” is the calculated volumes of ethanol from ethanol-blended gasolines transferred to the records of other fuel suppliers within the same compliance year,

“F” is the volume of ethanol-blended gasolines and non-ethanol-blended gasolines distributed from or sold in Northern Ontario in the compliance year, in the case of the compliance years 2007, 2008 and 2009, and if the fuel supplier has elected under subsection 3 (3),

“G” is the volume of ethanol-blended gasolines and non-ethanol-blended gasolines placed in the Ontario market in the compliance year for the purposes of generating power in aircraft, marine vessels or equipment, off-road vehicles or equipment, or vehicles manufactured prior to 1980 if the fuel supplier has so elected under subsection 3 (4).

O. Reg. 535/05, s. 4 (1).

(2) For the purposes of calculating the formula in subsection (1), portions of the calculated volume of ethanol from ethanol-blended gasolines placed in the Ontario market in a compliance year may be transferred from the records of one fuel supplier to the records of another within the same compliance year. O. Reg. 535/05, s. 4 (2).

Report

5. (1) On or before March 31 in each year after 2007, every fuel supplier shall file a report with the Director respecting its compliance with this Regulation in the previous compliance year. O. Reg. 535/05, s. 5 (1).

(2) The report shall be in a form acceptable to the Director, and shall contain, at a minimum,

- (a) information identifying the fuel supplier and the officer who submits the report;
- (b) the result of the calculation provided for in subsection 4 (1) and the values for all of the information included in reaching that result;
- (c) in the case of a fuel supplier who elects to deduct gasoline distributed from or sold in Northern Ontario from the compliance formula for compliance year 2007, 2008 or 2009, a statement to that effect;
- (d) in the case of a fuel supplier who elects to deduct gasoline placed in the Ontario market in the compliance year for the purposes of generating power in aircraft, marine vessels or equipment, off-road vehicles or equipment, or vehicles manufactured prior to 1980, a statement to that effect; and
- (e) sufficient information to determine compliance with the requirements of this Regulation, and to verify the calculation of the formula provided for in subsection 4 (1). O. Reg. 535/05, s. 5 (2).

(3) Every fuel supplier shall, with its report under subsection (1), include a report on the ethanol volumes contained in the gasoline it placed in the Ontario market in the period commencing on May 15 and ending on September 14 in the previous compliance year, calculated in accordance with the formula:

$$y = (C_{\text{summer}} + C1_{\text{summer}}) / (C + C1) \times 100$$

where,

“y” is the ethanol content in ethanol-blended gasoline placed in the Ontario market in the period commencing on May 15 and ending on September 14 in the compliance year, expressed as a percentage of the total volume of ethanol in ethanol-blended gasoline placed in the Ontario market for the entire compliance year,

“Csummer” is the volume of non-cellulosic ethanol that is contained in the volume of “A” used for the formula in subsection 4 (1) that is placed in the Ontario market commencing on May 15 and ending on September 14 in the compliance year,

“C1summer” is the volume of cellulosic ethanol that is contained in the volume of “A” used for the formula in subsection 4 (1) that is placed in the Ontario market commencing on May 15 and ending on September 14 in the compliance year.

O. Reg. 535/05, s. 5 (3).

(4) The report required under subsection (3) must include the result of the calculation provided for in that subsection, and the values for all of the information included in reaching that result. O. Reg. 535/05, s. 5 (4).

Records

6. (1) Every fuel supplier shall keep at its principal place of business in Ontario, and with respect to each of its facilities and transactions, or, in the case of imported gasoline, with respect to its total imports, records and books of account in such form and containing such information as will enable the accurate determination of compliance with this Regulation, including, without being limited to,

- (a) data and calculations of the volumes reported for the purposes of the formulas set out in subsections 4 (1) and 5 (3);
- (b) dated metered-values, bills of lading, invoices, sales receipts, records of payment and records or transaction for volumes of ethanol-blended gasolines, non-ethanol-blended gasolines, ethanol, or blendstock used, blended, sold, imported, acquired through an inter-refiner agreement or transferred to or from another fuel supplier or facility and identifying information about such fuel suppliers and facilities; and
- (c) dated contracts, records of transfer, invoices and records of payment for calculated volumes of ethanol that are transferred between fuel suppliers. O. Reg. 535/05, s. 6 (1).

(2) Every fuel supplier required to keep business records and books of account under subsection (1) shall maintain every such record or book of account, as well as any other document necessary to verify the information in such record or book of account for a period of seven years following the end of the relevant compliance year, unless written permission for their disposal is received from the Director. O. Reg. 535/05, s. 6 (2).

7. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 535/05, s. 7.