

**ONTARIO REGULATION 97/14**

made under the

ENVIRONMENTAL PROTECTION ACT

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**GREENER DIESEL — RENEWABLE FUEL CONTENT REQUIREMENTS FOR
PETROLEUM DIESEL FUEL****PART I
INTERPRETATION AND APPLICATION****Interpretation**

1. (1) In this Regulation,

“bio-based diesel” means any liquid fuel that,

- (a) is suitable for use in a diesel engine, and
- (b) is derived from biological matter that is available on either a renewable or recurring basis;

“blended diesel” means a combination of petroleum diesel and bio-based diesel;

“compliance period” means,

- (a) the period of time beginning April 1, 2014 and ending December 31, 2015,
- (b) the period of time beginning January 1, 2016 and ending December 31, 2016, or
- (c) after the period of time mentioned in clause (b), a calendar year;

“facility” means,

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

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

- (a) manufactures petroleum diesel or blends petroleum diesel with bio-based diesel and uses it or sells it at wholesale or retail,
- (b) imports petroleum diesel or blended diesel and uses it or sells it at wholesale or retail, or
- (c) acquires petroleum diesel or blended diesel through an inter-refiner agreement and uses it or sells it at wholesale or retail;

“GHGenius model” means version 4.03a or, if a subsequent version is adopted by the Director, the subsequent version of the spreadsheet model of that name, made available at one or more websites specified by the Director;

“greenhouse gas intensity” means the greenhouse gas emissions attributable to a fuel quantified using the GHGenius model and expressed in grams of carbon dioxide equivalent emissions per megajoule of energy;

“import” means to import into Ontario from outside Ontario;

“inter-refiner agreement” means an arrangement between refiners for the transfer of petroleum diesel or blended diesel, and includes arrangements to purchase, sell or exchange petroleum diesel or blended diesel;

“Northern Ontario” means all those parts of Ontario lying north and west of the Mattawa River, Lake Nipissing and the French River, including the Territorial District of Manitoulin;

“petroleum diesel” means a liquid petroleum fuel that,

- (a) is sold or represented as diesel fuel or as a fuel suitable for use in a diesel engine,
- (b) is subject to evaporation at atmospheric pressure, and
- (c) boils within the range of 130°C to 400°C;

“professional engineer” means a person who holds a licence, limited licence, provisional licence or temporary licence under the *Professional Engineers Act*.

(2) For the purposes of this Regulation, a volume of petroleum diesel or blended diesel is “placed in the Ontario market” if a fuel supplier,

- (a) manufactured 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 an inter-refiner agreement and used it or sold it, at wholesale or retail, in Ontario.

(3) For the purposes of this Regulation, petroleum diesel or blended diesel is not distributed if it is transferred from one refiner to another as the result of an inter-refiner agreement.

(4) For the purposes of any calculations under this Regulation, if a volume of petroleum diesel or blended diesel is placed in the Ontario market more than once, only the fuel supplier that first placed it in the Ontario market shall account for it.

Application

2. (1) Parts II, III and IV do not apply with respect to petroleum diesel or blended diesel that,

- (a) enters Ontario in the fuel tank of a vehicle and that is used to power that vehicle; or
- (b) is in transit through Ontario from a place outside Ontario to another place outside Ontario, if the fact of the transit can be established by written evidence.

(2) Other than clause 7 (2) (d) and section 8, Parts II, III and IV do not apply with respect to bio-based diesel, blended diesel or petroleum diesel that the fuel supplier reasonably expects, at the time of sale, will be used for the purposes of generating power in an aircraft or in a furnace or boiler to produce heat.

(3) Other than section 8, Parts II, III and IV do not apply with respect to blended diesel or petroleum diesel that,

- (a) is manufactured for distribution outside Ontario or destined for distribution outside Ontario, if the fact of the manufacturing for distribution outside Ontario can be established by written evidence; or
- (b) is imported to be used in Ontario in scientific research other than marketing research or studies of consumer preferences relating to petroleum diesel or blended diesel, if the fact of the use for scientific research can be established by written evidence.

PART II BLENDED DIESEL QUALITY STANDARDS

Quality standards for blended diesel

3. (1) No fuel supplier shall distribute blended diesel for use or sale in Ontario unless the blended diesel meets the standards set out in one of following documents:

1. Canadian General Standards Board (CGSB) document CAN/CGSB – 3.520-2011 – Automotive Diesel Fuel Containing Low Levels of Biodiesel (B1-B5), as amended from time to time.
2. Canadian General Standards Board (CGSB) document CAN/CGSB – 3.522-2011 – Diesel Fuel Containing Biodiesel (B6-B20), as amended from time to time.
3. Canadian General Standards Board (CGSB) document CAN/CGSB – 3.524-2011 – Biodiesel (B100) for Blending in Middle Distillate Fuels, as amended from time to time.
4. Canadian General Standards Board (CGSB) document CAN/CGSB – 3.517-2013 – Diesel Fuel, as amended from time to time.
5. American Society for Testing and Materials (ASTM) document ASTM – D6751-12 – Standard Specification for Biodiesel Fuel Blend Stock B100 for Middle Distillate Fuels, as amended from time to time.
6. American Society for Testing and Materials (ASTM) document ASTM – D7467-13 – Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20), as amended from time to time.
7. American Society for Testing and Materials (ASTM) document ASTM – D975-14 –

Standard Specification for Diesel Fuel Oils, as amended from time to time.

8. A set of standards and specifications that is considered by the Director to be equivalent to one of those set out in paragraphs 1 to 7 and that is approved in writing by the Director before the distribution of the blended diesel.

(2) If a fuel supplier seeks approval of a set of standards and specifications for the purposes of paragraph 8 of subsection (1), the fuel supplier shall provide the Director with whatever information, including methods and protocols for testing, that is required to satisfy the Director that the standards and specifications are equivalent to one of those set out in paragraphs 1 to 7 of subsection (1).

(3) Compliance with a standard mentioned in subsection (1) shall be determined in accordance with the test methods and requirements set out in the standard that is applied.

PART III

MINIMUM BIO-BASED DIESEL CONTENT

Minimum bio-based diesel content

4. (1) Every fuel supplier shall ensure that the petroleum diesel and blended diesel that it places in the Ontario market for the compliance period beginning April 1, 2014 and ending December 31, 2015 contains an Average Adjusted Volume of bio-based diesel of at least two per cent calculated in accordance with the compliance formula in subsection 6 (1).

(2) Every fuel supplier shall ensure that the petroleum diesel and blended diesel that it places in the Ontario market for the compliance period beginning January 1, 2016 and ending December 31, 2016 contains an Average Adjusted Volume of bio-based diesel of at least three per cent calculated in accordance with the compliance formula in subsection 6 (2).

(3) Every fuel supplier shall ensure that the petroleum diesel and blended diesel that it places in the Ontario market for each compliance period after the compliance period ending December 31, 2016 contains an Average Adjusted Volume of bio-based diesel of at least four per cent calculated in accordance with the compliance formula in subsection 6 (3).

Rules for applying compliance formulas

5. (1) For the purposes of the formulas in subsections 6 (1) and (2), petroleum diesel that the fuel supplier distributed to, from or within Northern Ontario may be deducted from the total amount of petroleum diesel it placed in the Ontario market for the compliance periods beginning April 1, 2014 and January 1, 2016, if the fuel supplier,

(a) elects to deduct the amount in accordance with clause 7 (2) (c); and

(b) can establish by written evidence that the petroleum diesel was distributed to, from or within Northern Ontario during the relevant compliance period.

(2) For the purposes of the formulas in section 6, a fuel supplier may transfer a portion of the volume of bio-based diesel that it placed in the Ontario market during a compliance period from its records and books of account to the records and books of account of another fuel supplier for the same compliance period.

(3) In calculating “y” for the purposes of the formulas in section 6, the fuel supplier shall,

(a) comply with any written directions by the Director made under subsection (4);

- (b) ensure that a professional engineer is of the opinion that,
 - (i) the primary data used to calculate “y” are reasonable, and
 - (ii) the calculation of “y” is correct.

(4) The Director may issue written directions as to the manner in which the following types of data are to be input into the GHGenius model:

- (a) primary data, consisting of quantified values of products, materials or energy flows that enter and leave a production process or activity, directly measured, calculated or obtained and based on specific original source measurements; and
- (b) secondary data, consisting of quantified values of products, materials or energy flows that enter and leave a production process or activity, indirectly measured, calculated or obtained and not based on specific original source measurements.

Compliance formulas

6. (1) The following formula shall be used to calculate whether a fuel supplier is in compliance with subsection 4 (1) for the compliance period beginning April 1, 2014 and ending December 31, 2015:

$$\text{Average Adjusted Volume (expressed as a per cent)} = \left[\frac{\{A [(91.9-y)/27.6] + B - C\}}{(D + E - F)} \right] \times 100$$

where,

- “A” is the volume of bio-based diesel that the fuel supplier placed in the Ontario market during the compliance period,
- “B” is the volume of bio-based diesel transferred from the records and books of account of other fuel suppliers under subsection 5 (2),
- “C” is the volume of bio-based diesel transferred to the records and books of account of other fuel suppliers under subsection 5 (2),
- “D” is the volume of petroleum diesel that the fuel supplier placed in the Ontario market during the compliance period,
- “E” is the volume of blended diesel that the fuel supplier placed in the Ontario market during the compliance period,
- “F” is the volume of petroleum diesel and blended diesel that the fuel supplier distributed to, from or within Northern Ontario during the compliance period if the fuel supplier has elected under subsection 5 (1),
- “y” is the greenhouse gas intensity of the bio-based diesel that the fuel supplier placed in the Ontario market during the compliance period, calculated on a weighted average basis by volume.

(2) The following formula shall be used to calculate whether a fuel supplier is in compliance with subsection 4 (2) for the compliance period beginning January 1, 2016 and ending December 31, 2016:

$$\text{Average Adjusted Volume (expressed as a per cent)} = \left[\frac{\{A [(91.9-y) /45.9] + B - C\}}{(D + E - F)} \right] \times 100$$

where,

- “A” is the volume of bio-based diesel that the fuel supplier placed in the Ontario market during the compliance period,
- “B” is the volume of bio-based diesel transferred from the records and books of account of other fuel suppliers under subsection 5 (2),
- “C” is the volume of bio-based diesel transferred to the records and books of account of other fuel suppliers under subsection 5 (2),
- “D” is the volume of petroleum diesel that the fuel supplier placed in the Ontario market during the compliance period,
- “E” is the volume of blended diesel that the fuel supplier placed in the Ontario market during the compliance period,
- “F” is the volume of petroleum diesel and blended diesel that the fuel supplier distributed to, from or within Northern Ontario during the compliance period if the fuel supplier has elected under subsection 5 (1),
- “y” is the greenhouse gas intensity of the bio-based diesel that the fuel supplier placed in the Ontario market during the compliance period, calculated on a weighted average basis by volume.

(3) The following formula shall be used to calculate whether a fuel supplier is in compliance with subsection 4 (3) for each compliance period after the compliance period ending December 31, 2016:

$$\text{Average Adjusted Volume (expressed as a per cent)} = \left[\frac{\{A [(91.9-y)/64.3] + B - C\}}{(D + E)} \right] \times 100$$

where,

- “A” is the volume of bio-based diesel that the fuel supplier placed in the Ontario market during the compliance period,
- “B” is the volume of bio-based diesel transferred from the records and books of account of other fuel suppliers under subsection 5 (2),
- “C” is the volume of bio-based diesel transferred to the records and books of account of other fuel suppliers under subsection 5 (2),
- “D” is the volume of petroleum diesel that the fuel supplier placed in the Ontario market during the compliance period,
- “E” is the volume of blended diesel that the fuel supplier placed in the Ontario market during the compliance period,
- “y” is the greenhouse gas intensity of the bio-based diesel that the fuel supplier placed in the Ontario market during the compliance period, calculated on a weighted average basis by volume.

PART IV REPORTS AND RECORDS

Compliance reports

7. (1) On or before March 31 of the calendar year following a compliance period, every fuel supplier shall file a report with the Director respecting its compliance with this Regulation in the previous compliance period.

(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 done under subsection 6 (1), (2) or (3), the values used in reaching that result and the rationale for the use of the values used in the calculation;
- (c) in the case of a fuel supplier who elects to deduct petroleum diesel under subsection 5 (1), a statement to that effect;
- (d) in the case of a fuel supplier who placed bio-based diesel, blended diesel or petroleum diesel in the Ontario market during a compliance period that the fuel supplier reasonably expected to be used for the purpose of generating power in an aircraft or in a furnace or boiler to produce heat, a statement to that effect and the volume of bio-based diesel, blended diesel or petroleum diesel that was sold for those purposes; and
- (e) sufficient information to determine compliance with the requirements of this Regulation and to verify the calculation done under subsection 6 (1), (2) or (3).

(3) The report filed under subsection (1) shall also contain the volume and greenhouse gas intensity, calculated on a weighted average basis by volume of the bio-based diesel contained in the blended diesel that the fuel supplier placed in the Ontario market during each quarter of the previous compliance period.

Records

8. (1) Every fuel supplier shall keep at its principal place of business in Ontario records and books of account with respect to each of its facilities in Ontario and each of its transactions in Ontario involving the acquisition, blending, distribution, manufacture or use of petroleum diesel, bio-based diesel or blended diesel.

(2) The records and books of account referred to in subsection (1) shall be in such form and contain such information as will enable the accurate determination of compliance with this Regulation, including,

- (a) the data collected and calculations done for the purposes of section 6, including the volumes and associated greenhouse gas intensity values;
- (b) dated records of meter readings, bills of lading, invoices, sales receipts, records of payment and records of transaction for volumes of bio-based diesel, blended diesel or petroleum diesel that are,
 - (i) used, distributed or blended,
 - (ii) transferred to or from another fuel supplier or facility,
 - (iii) imported, or
 - (iv) exported from Ontario;

- (c) identifying information about the fuel suppliers and facilities mentioned in subclause (b) (ii);
- (d) dated contracts, records of transfer, invoices and records of payment for volumes of bio-based diesel that are transferred between fuel suppliers in Ontario; and
- (e) written evidence that the opinion required under clause 5 (3) (b) was obtained from a professional engineer.

(3) Every fuel supplier required to keep business records and books of account under subsection (1) shall maintain every such record and 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 period, unless written permission for their disposal is received from the Director.

PART V COMMENCEMENT

Commencement

9. This Regulation comes into force on the later of April 1, 2014 and the day it is filed.

[Back to top](#)