

**This Web page has been archived on the Web.**

[Home](#) > [Part I: Notices and Proposed Regulations](#) > [2011-12-03](#)

□

Vol. 145, No. 49 — December 3, 2011

## Regulations Amending the Sulphur in Diesel Fuel Regulations

### *Statutory authority*

*Canadian Environmental Protection Act, 1999*

### *Sponsoring department*

Department of the Environment

### REGULATORY IMPACT ANALYSIS STATEMENT

*(This statement is not part of the Regulations.)*

### ***Issue and objectives***

Exhaust emissions from ships are a growing part of the total emissions from the transportation sector in Canada. Despite significant reductions in air pollution over the past three decades, air pollution continues to be a serious problem with major impacts on the environment and health of Canadians.

To address this issue, the United States, Canada and France (for St. Pierre and Miquelon) proposed the designation of the waters within 200 nautical miles of the east and west coasts of Canada and the United States as an Emission Control Area ([see footnote 1](#)) (ECA). In March 2010, this proposal was adopted by the Parties to Annex VI of the International Convention for the Prevention of Pollution from Ships (known as MARPOL, Annex VI). The North American ECA requirements will become enforceable on August 1, 2012. Implementing the ECA requirements will dramatically reduce air pollution from ships and deliver substantial air-quality and public health benefits that extend hundreds of kilometres inland.

Canada now has a commitment to implement fuel-quality and engine emission standards by August 1, 2012, for ships operating in Canadian waters of the ECA. The United States has already implemented domestic regulations and Transport Canada plans to implement similar regulations under the authority of the *Canada Shipping Act, 2001*. The proposed amendments to the *Sulphur in Diesel Fuel Regulations* will ensure alignment with Transport Canada regulations to implement the North American ECA requirements.

Under the proposed ECA and Canada's regulations that implement the ECA, large ships over 400 gross tonnes must meet the standard of being equivalent to burning fuel with a maximum sulphur content of 1 000 mg/kg, compared to heavy fuels currently in use with sulphur contents over 25 000 mg/kg. Compliance may be achieved by using low sulphur content marine fuel or by adopting approaches that produce the equivalent emissions, such as emission control technologies, alternative fuels or onboard procedures. MARPOL Annex VI requires that Canada ensure fuel conforming to regulations is available in Canadian ports and terminals. The proposed amendments are needed to ensure these lower sulphur fuels are available in the Canadian marketplace.

### ***Description and rationale***

The *Sulphur in Diesel Fuel Regulations* currently require that sulphur content in marine diesel fuel be limited to 15 mg/kg beginning on June 1, 2012. The proposed amendments would allow large ships to obtain diesel fuel with a maximum sulphur content of 1 000 mg/kg beginning on June 1, 2012, in order to comply with Transport Canada's planned Regulations to implement the North American ECA and international standards. The proposed amendments are planned to be finalized and effective by June 1, 2012. These timelines would ensure that fuel will be available in Canada in time for Canada to meet its obligations under the North American ECA and Annex VI requirements.

Amendments to the *Vessel Pollution and Dangerous Chemicals Regulations* are expected to be published in the *Canada Gazette*, Part I, in the winter of 2011–2012 in order to ensure that those amended Regulations are in place by August 1, 2012, when the ECA sulphur requirements come into force. These vessel emission Regulations would require either use of low-sulphur marine fuels and/or the achievement of equivalent emission reductions through emission control technologies, alternative fuels, or alternative onboard compliance procedures. The use of low-sulphur marine fuels would require shipowners and operators, when operating within the ECA, to switch from traditional, high-sulphur heavy fuel oils to lighter distillate fuels. The distillate fuels would meet the “diesel fuel” definition found in Environment Canada’s *Sulphur in Diesel Fuel Regulations*, which, without the proposed regulatory amendments, would be reduced to 15 mg/kg for all diesel fuels, beginning on June 1, 2012. ([see footnote 2](#)) Therefore, without the proposed amendments to the *Sulphur in Diesel Fuel Regulations*, marine diesel fuel with a sulphur content up to 1 000 mg/kg would not be available for large ships in Canada as an alternative to the heavy residual fuels currently in use.

The amendments further align these regulations with those of the United States and would support the planned vessel emission Regulations to function as intended to implement the international standards of the North American ECA. Both of these planned regulations are expected to lead to significant reductions in criteria air contaminant (CAC) emissions from large marine vessels, which would contribute to improved health and environmental benefits for Canadians.

To ensure that the lower sulphur diesel fuel is available as an option for large ships, the amendments will allow for the production, import and sales limits for marine fuels with a sulphur content of 1 000 mg/kg for use in large vessels, while maintaining a lower sulphur limit of 15 mg/kg for diesel fuel used in small ships.

The amendments are needed to allow the benefits of the North American ECA agreement to be realized. Under the MARPOL Convention, countries need to ensure supplies of compliant fuel are available and no ship must be forced to re-route its journey to obtain diesel fuel with a sulphur content up to 1 000 mg/kg. If the current June 1, 2012, 15 mg/kg limit were left unchanged, then ships operating in Canadian waters could report to the IMO that diesel fuel with a sulphur content of 1 000 mg/kg was unavailable at Canadian ports and cite an exemption under MARPOL Annex VI for fuel availability whereby they could use fuel with the next lowest sulphur content, but that content would exceed 1 000 mg/kg. Thus, the *Sulphur in Diesel Fuel Regulations* require an amendment to allow production, import and sale of 1 000 mg/kg diesel fuel after June 1, 2014, for use in large ships. Costs and benefits will be quantified in the planned vessel emission Regulations to be enacted under the *Canada Shipping Act, 2001*.

In addition to the amendments allowing the production, import and sale of fuel with a sulphur content of 1 000 mg/kg in Canada for large marine vessels, the existing sulphur limit for sales to locomotives and smaller ships will be reduced from 500 mg/kg to 15 mg/kg as of June 1, 2014. The current requirements for sulphur in diesel fuel in the *Sulphur in Diesel Fuel Regulations* for locomotives and smaller ships are 15 mg/kg for production and importation, and 500 mg/kg for sales starting in 2012, which is aligned with the U.S. requirements. The 500 mg/kg sulphur limit for sales to locomotives and smaller ships was in place to provide a sales outlet for fuel that may be contaminated during distribution. The United States ([see footnote 3](#)) will move to a 15 mg/kg sulphur limit for sales to locomotives and smaller ships as of June 2012, and considers that the new 1 000 mg/kg diesel fuel class can serve as the sales outlet for off-specification diesel fuel exceeding the 15 mg/kg limit. Accordingly, this amendment will be aligned with the U.S. requirements, and is expected to have minimal incremental impact.

The proposed amendments will also limit sulphur content in diesel fuel produced in, imported to or sold in Canada for stationary diesel engines, to eliminate potential future risks of backsliding on diesel fuel quality. These requirements will align with those of the United State, ([see footnote 4](#)) will reflect current fuel supply practices in Canada and would have no impact on current industry operations. The proposed requirements would come into force beginning on June 1, 2014.

Sulphur limits of 15 mg/kg and 1 000 mg/kg are proposed for diesel fuel used in small and large stationary engines, respectively, with effective dates of June 1, 2012, and June 1, 2014. These proposed sulphur limits for diesel fuel used in small ([see footnote 5](#)) and large ([see footnote 6](#)) stationary engines would harmonize Canada’s requirements for sulphur in diesel fuel with those of the United States, which have been in place since 2006. The proposed amendments do not have any requirement that a fuel supplier produce, import or sell any specific fuel type in Canada.

These requirements reflect current fuel supply practices in Canada. Ultra low-sulphur diesel (sulphur content of 15 mg/kg) is already used in small stationary engines Canada-wide. Small diesel engines that

are designed for use in off-road, rail and marine applications may also be used for stationary applications. It is expected that this fuel requirement will have minimal effect on Canada's diesel fuel pool; therefore, very limited costs to industry would be incurred. There is no high-sulphur diesel production in Canada, and of the minimal amount that is imported, none is supplied for stationary generator use. ([see footnote 7](#))

The amendments also include several administrative amendments:

- updating a repealed test method;
- improving enforceability of the Regulations and reducing the frequency of reporting; and
- reducing the compliance burden associated with diesel fuel for use in scientific research.

Accordingly, the requirements would have no impact on current industry operations, but would eliminate any future risk of backsliding on diesel fuel quality, and ensure low sulphur diesel fuel for potential future Canadian regulations on stationary diesel engine emissions.

Table 1: Summary of current and proposed limits and effective dates under the *Sulphur in Diesel Fuel Regulations*

<b>Large Vessel Marine Diesel Fuel</b>		
	<b>Current sulphur limits</b>	<b>Proposed sulphur limits</b>
<b>Production or import</b>	500 mg/kg — June 1, 2007 (15 mg/kg — June 1, 2012)	1 000 mg/kg — June 1, 2014
<b>Sales</b>	500 mg/kg — October 1, 2007 ( <a href="#">see footnote 8</a> )	1 000 mg/kg — June 1, 2014
<b>Non-Large Vessel Marine Diesel Fuel</b>		
	<b>Current sulphur limits</b>	<b>Proposed sulphur limits</b>
<b>Production or import</b>	500 mg/kg — June 1, 2007 15 mg/kg — June 1, 2012	(no change)
<b>Sales</b>	500 mg/kg — October 1, 2007	15 mg/kg — June 1, 2014
<b>Rail Diesel Fuel</b>		
	<b>Current sulphur limits</b>	<b>Proposed sulphur limits</b>
<b>Production or import</b>	500 mg/kg — June 1, 2007 15 mg/kg — June 1, 2012	(no change)

<b>Sales</b>	500 mg/kg — October 1, 2007	15 mg/kg — June 1, 2014
--------------	-----------------------------	-------------------------

<b>Small Stationary Engine Diesel Fuel</b>		
	<b>Current sulphur limits</b>	<b>Proposed sulphur limits</b>
<b>Production or import</b>	(Regulations do not currently include a limit)	15 mg/kg — June 1, 2014
<b>Sales</b>	(Regulations do not currently include a limit)	15 mg/kg — June 1, 2014

<b>Large Stationary Engine Diesel Fuel</b>		
	<b>Current sulphur limits</b>	<b>Proposed sulphur limits</b>
<b>Production or import</b>	(Regulations do not currently include a limit)	1 000 mg/kg — June 1, 2014
<b>Sales</b>	(Regulations do not currently include a limit)	1 000 mg/kg — June 1, 2014

It is important to note that diesel engines that are designed for use in off-road, rail and marine applications may also be used for stationary applications; hence, may already be using diesel fuel with 15 ppm sulphur content. Such engines fall under the Regulations' definition of "off-road engine" in the text of the proposed regulatory amendments.

Other administrative amendments are also proposed. These would update a repealed test method, improve enforceability and streamline reporting requirements while reducing the compliance burden associated with diesel fuel for scientific research.

The required administrative amendments being proposed are as follows:

- Replacing the repealed test method referenced in the Regulations ASTM D 4855-97 *Standard Practice for Comparing Test Methods* with the equivalent standard ASTM D 6708-08 *Standard Practice for Statistical Assessment and Improvement of Expected Agreement Between Two Test Methods that Purport to Measure the Same Property of a Material*;
- Adding a reporting/sulphur limit exemption for diesel fuel for use in scientific research to reduce the compliance burden associated with this low-volume fuel application and to be consistent with reporting requirements of the *Sulphur in Gasoline Regulations* and the *Benzene in Gasoline Regulations*;
- Changing reporting frequency from quarterly to annually as of 2013 instead of 2015 for on-road, off-road, rail and marine diesel fuel to reduce the administrative burden on industry of quarterly reporting; and
- Adjusting the information that must be reported in advance of imports (including business civic addresses, time and location of imports) in order to improve enforceability of the *Sulphur in Diesel Fuel Regulations* while still enabling timely imports to occur.

The proposed amendments would come into force on the date they are registered.

## **Consultation**

The amendments to the *Sulphur in Diesel Fuel Regulations* are being proposed in order to facilitate Canada's future implementation of the requirements of Annex VI to MARPOL and to further harmonize Environment Canada's requirements with those of the U.S. EPA diesel fuel program.

Environment Canada consulted with stakeholders in the spring of 2011 on the proposed amendments under consideration. In general, there was broad support for the proposed amendments. Two stakeholders expressed support for the amendments pertaining to diesel fuel for large vessels to be in effect by August 1, 2012. The petroleum industry welcomed the proposed approach to harmonize, to a large extent, Canada's fuels regulations with those in place in the United States. The shipping industry supported those provisions which enable compliance with the ECA provisions. Representatives of the rail industry indicated support for Canada to align itself with the U.S. EPA on sulphur limits.

In the most recent amendments, Environment Canada proposes to align Canada with the United States since they are moving towards 15 mg/kg fuel for rail sales as of 2012, and now consider 1 000 mg/kg marine fuel the outlet for off-specification fuel. During recent consultations, the rail industry indicated support for Environment Canada being aligned with the U.S. EPA on these sulphur limits. ([see footnote 9](#))

Following the June 2005 U.S. EPA publication of proposed new emission standards for stationary, diesel compression-ignition engines and limits on sulphur in the diesel fuel used in those engines, Environment Canada informed stakeholders that, based on its general policy of alignment with the fuel-quality requirements of the United States, it would consider developing similar standards. During consultations in 2011, fuel suppliers have indicated that diesel fuel high in sulphur is not imported nor sold for use in stationary generators, and that the proposed sulphur limits would have no impact on their operations. Discussions with fuel users, such as those in northern communities, confirm that the fuel supplied to such communities is diesel low in sulphur in compliance with the current requirements of the *Sulphur in Diesel Fuel Regulations*.

With respect to the administrative amendment updating the repealed test method, a Discussion Paper outlining this proposed amendment was released in March 2010. The Department received comments from three stakeholders during the public comment period. None of the parties opposed this proposed change to the *Sulphur in Diesel Fuel Regulations*. One party asked whether a grandfather clause could be included and whether more time could be provided for regulatees. This comment was addressed by grandfathering the referenced test method in the proposed amendments to ensure test methods which have already been deemed equivalent under the Regulations do not require re-qualification under the proposed referenced test method.

Conforming to the requirements of the *Canadian Environmental Protection Act, 1999* (CEPA 1999), the Minister of the Environment offered to consult with the provinces and members of the CEPA National Advisory Committee on the elements of the proposed Regulations. Bilateral discussions with any members who accept the offer to consult will be completed prior to the preparation of the Regulations and their publication in the *Canada Gazette*, Part II.

## **Implementation, enforcement and service standards**

### Implementation

For the purpose of implementing the amendments to the regulatory requirements, Environment Canada would update its compliance promotion material related to the *Sulphur in Diesel Fuel Regulations*, available at [www.ec.gc.ca/energie-energy/default.asp?lang=En&n=48F8FEEC-1](http://www.ec.gc.ca/energie-energy/default.asp?lang=En&n=48F8FEEC-1). Distribution of this updated material would be targeted towards raising awareness and encouraging the regulated community to achieve a high level of overall compliance. Compliance promotion activities would be revisited from time to time to ensure that the Regulations are implemented in the most effective and efficient manner.

### Enforcement

Since the Regulations would be made under CEPA 1999, enforcement officers would, when verifying compliance with the Regulations, apply the Compliance and Enforcement Policy implemented under the Act. The Policy sets out the range of possible responses to violations, including warnings, directions, environmental protection compliance orders, ticketing, ministerial orders, injunctions, prosecution, and environmental protection alternative measures (which are an alternative to a court trial after the laying of charges for a CEPA 1999 violation). In addition, the Policy explains when Environment Canada will resort to civil suits by the Crown for cost-recovery.

When, following an inspection or an investigation, an enforcement officer discovers an alleged violation, the officer would choose the appropriate enforcement action based on the following factors:

- Nature of the alleged violation: This includes consideration of the damage, the intent of the alleged violator, whether it is a repeat violation, and whether an attempt has been made to conceal information or otherwise subvert the objectives and requirements of the Act;
- Effectiveness in achieving the desired result with the alleged violator: The desired result is compliance within the shortest possible time and no repetition of the violation. Factors to be considered include the alleged violator's history of compliance with the Act, willingness to cooperate with enforcement officers, and evidence of corrective action already taken; and
- Consistency: Enforcement officers will consider how similar situations have been handled in determining the measures to be taken to enforce the Act.

Environment Canada will monitor sulphur content in diesel fuel and compliance with the Regulations.

#### Service standards

There are no service standards associated with the Regulations.

#### **Contacts**

Leif Stephanson  
Chief  
Fuels Section  
Oil, Gas and Alternative Energy Division  
Environment Canada  
351 Saint-Joseph Boulevard, 9th Floor  
Gatineau, Quebec  
K1A 0H3  
Telephone: 819-953-4673  
Fax: 819-953-8903  
Email: fuels-carburants@ec.gc.ca

Luis G. Leigh  
Director  
Regulatory Analysis and Valuation Division  
Environment Canada  
10 Wellington Street, 25th Floor  
Gatineau, Quebec K1A 0H3  
Telephone: 819-953-1170  
Fax: 819-953-3241  
Email: Luis.Leigh@ec.gc.ca

#### **PROPOSED REGULATORY TEXT**

Notice is hereby given, pursuant to subsection 332(1) ([see footnote a](#)) of the *Canadian Environmental Protection Act, 1999* ([see footnote b](#)), that the Governor in Council, pursuant to sections 140 ([see footnote c](#)) and 330 ([see footnote d](#)) of that Act, proposes to make the annexed *Regulations Amending the Sulphur in Diesel Fuel Regulations*.

Any person may, within 60 days after the date of publication of this notice, file with the Minister of the Environment comments with respect to the proposed Regulations or a notice of objection requesting that a board of review be established under section 333 of that Act and stating the reasons for the objection. All comments and notices must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be sent by mail to Leif Stephanson, Chief, Fuels Section, Oil, Gas and Alternative Energy Division, Energy and Transportation Directorate, Department of the Environment, Gatineau, Quebec K1A 0H3, by fax to 819-953-8903 or by email to fuels-carburants@ec.gc.ca.

A person who provides information to the Minister of the Environment may submit with the information a request for confidentiality under section 313 of that Act.

Ottawa, November 17, 2011

JURICA ČAPKUN

**REGULATIONS AMENDING THE SULPHUR IN DIESEL FUEL REGULATIONS  
AMENDMENTS**

**1. Subsection 1(1) of the *Sulphur in Diesel Fuel Regulations* ([see footnote 10](#)) is amended by adding the following in alphabetical order:**

"large stationary engine" means a diesel engine, except for aircraft engines, locomotive engines, vessel engines, off-road engines and engines used to propel on-road vehicles, that has a per-cylinder displacement equal to or greater than 30 000 cm<sup>3</sup>. (*gros moteur stationnaire*)

"scientific research" does not include research into the preferences of consumers for differing properties of diesel fuel or marketing research. (*recherche scientifique*)

"small stationary engine" means a diesel engine, except for aircraft engines, locomotive engines, vessel engines, off-road engines and engines used to propel on-road vehicles, that has a per-cylinder displacement of less than 30 000 cm<sup>3</sup>. (*petit moteur stationnaire*)

"vessel propelled by a large diesel engine" means a vessel that is propelled by one or more diesel engines that have a per-cylinder displacement equal to or greater than 30 000 cm<sup>3</sup>. (*bateau propulsé par un gros moteur diesel*)

**2. Section 2 of the Regulations is replaced by the following:**

2. (1) These Regulations do not apply to diesel fuel if

- (a) the fuel is in transit through Canada, from a place outside Canada to another place outside Canada, and is accompanied by written evidence establishing that the fuel is in transit;
- (b) the fuel is produced or sold for export and is accompanied by written evidence establishing that the fuel will be exported;
- (c) the fuel is being imported for a use referred to in section 3, the fuel's sulphur concentration exceeds the concentration referred to in that section and the fuel is accompanied by written evidence establishing that the fuel will meet the requirements of these Regulations before the fuel is used or sold; or
- (d) the fuel is being imported in a fuel tank that supplies an off-road engine, a small stationary engine, a large stationary engine or the engine of a conveyance that is used for transportation by water, land or air.

(2) These Regulations, except for section 1, subsections 5(4) to (7) and sections 5.2 and 6, do not apply in respect of diesel fuel for use in scientific research.

**3. Section 3 of the Regulations is replaced by the following:**

3. For the purposes of section 139 of the Act, the concentration of sulphur shall not exceed

- (a) in diesel fuel produced, imported or sold for use in on-road vehicles or off-road engines, 15 mg/kg;
- (b) in diesel fuel produced or imported for use in vessel engines — other than those installed on a vessel propelled by a large diesel engine — or in locomotive engines, 15 mg/kg;
- (c) in diesel fuel sold for use in vessel engines — other than those installed on a vessel propelled by a large diesel engine — or in locomotive engines, 500 mg/kg until May 31, 2014 and 15 mg/kg after May 31, 2014;
- (d) in diesel fuel produced, imported or sold for use in vessel engines installed on a vessel propelled by a large diesel engine, 1000 mg/kg after May 31, 2014;
- (e) in diesel fuel produced, imported or sold for use in small stationary engines, 15 mg/kg after May 31, 2014; and
- (f) in diesel fuel produced, imported or sold for use in large stationary engines, 1000 mg/kg after May 31, 2014.

**4. (1) Subsection 5(1) of the Regulations is replaced by the following:**

5. (1) Every person who produces or imports diesel fuel shall submit to the Minister a report, for each facility where the person produces diesel fuel and for each province into which the person imports diesel fuel, that contains the information set out in Schedule 1

(a) for each calendar quarter during which diesel fuel is produced or imported, within 45 days after the end of that quarter, until December 31, 2012; and

(b) for each calendar year during which diesel fuel is produced or imported, within 45 days after the end of that calendar year, after December 31, 2012.

**(2) Paragraph 5(2)(b) of the Regulations is replaced by the following:**

(b) a method equivalent to the one specified in paragraph (a) on the condition that the producer or importer proposing to use the method sends to the Minister, by registered mail or courier at least 60 days before using the method, a description of the method and evidence that demonstrates that it provides results equivalent to those provided by the method specified in paragraph (a) and the equivalency of the method is validated in accordance with the following:

(i) if the equivalency is validated on or before the 60th day after the coming into force of this paragraph, the American Society of Testing and Materials method ASTM D 4855-97 (Reapproved 2002), *Standard Practice for Comparing Test Methods* or the method referred to in subparagraph (ii), and

(ii) if the equivalency is validated after the day referred to in subparagraph (i), the American Society of Testing and Materials method ASTM D6708-08, *Standard Practice for Statistical Assessment and Improvement of Expected Agreement Between Two Test Methods that Purport to Measure the Same Property of a Material*.

**(3) Subsections 5(4) and (5) of the Regulations are replaced by the following:**

(4) Every person who intends to produce or import diesel fuel shall submit to the Minister a report, for each facility where the person intends to produce diesel fuel and for each province into which the person intends to import diesel fuel, that contains the information set out in Schedule 2 at least one day before the day on which the person produces or imports diesel fuel for the first time.

(5) Subject to subsection (5.1), a person who has submitted a report under subsection (4) shall notify the Minister in writing of any change in the information in the report, except for changes regarding typical annual volumes or the authorized official, no later than five days after the change.

(5.1) A person who submitted a report under subsection (4) before the coming into force of this subsection shall submit a new report, for each facility where the person produces diesel fuel and for each province into which the person imports diesel fuel, no later than 60 days after the coming into force of this subsection if the diesel fuel is produced or imported for

(a) use in vessel engines other than those on vessels propelled by a large diesel engine;

(b) use in vessel engines on vessels propelled by a large diesel engine;

(c) use in small stationary engines;

(d) use in large stationary engines; or

(e) use in scientific research.

**(4) Subsection 5(7) of the Regulations is replaced by the following:**

(7) A copy of each report or notice required under this section shall be maintained, for a period of five years after the report or notice is submitted to the Minister, at the production facility in Canada or at the principal place of business of the importer in Canada as identified in the information submitted under subsections (4), (5) and (5.1).

**5. The Regulations are amended by adding the following after section 5:**

**5.1** (1) Every person who intends to import diesel fuel shall notify the Minister in writing, at least 12 hours before the time of importation, of their intention to import

(a) more than 100 m<sup>3</sup> of diesel fuel at any one time; or

(b) more than 1000 m<sup>3</sup> of diesel fuel into any one province and within any one day.

(2) The notice required by subsection (1) shall include

- (a) the name and civic address of the importer;
- (b) a statement indicating whether the diesel fuel is intended for
  - (i) use in vessel engines on vessels propelled by a large diesel engine,
  - (ii) use in large stationary engines,
  - (iii) use in scientific research, or
  - (iv) any other use, if known;
- (c) the volume of diesel fuel that is to be imported;
- (d) the point of entry of the diesel fuel into Canada and the estimated date and time at which it will enter Canada;
- (e) the civic address of the first storage facility or refuelling facility to which the diesel fuel is to be delivered and the estimated date and time of its delivery there; and
- (f) the name and telephone number of a representative of the importer through whom sampling arrangements for the imported volume of diesel fuel can be made.

(3) Every person who imports diesel fuel — other than by pipeline — shall ensure that the diesel fuel is accompanied, from the point of entry into Canada to the point of final delivery, by a record that indicates

- (a) the name and civic address of the importer;
- (b) the name and civic address of the person to whom the diesel fuel is to be sold or the ownership is to be transferred;
- (c) the civic address of the first storage facility or refuelling facility to which the diesel fuel is to be delivered;
- (d) the volume of the diesel fuel; and
- (e) whether the diesel fuel is intended for use in scientific research, large stationary engines, vessel engines on vessels propelled by a large diesel engine, or, if known, any other use.

**5.2** (1) A report or notice that is required under these Regulations shall be sent electronically in the form and format specified by the Minister and shall bear the electronic signature of an authorized official.

(2) If the Minister has not specified an electronic form and format or if it is impractical to send the report or notice electronically in accordance with subsection (1) because of circumstances beyond the person's control, the report or notice shall be sent on paper, be signed by an authorized official and be in the form and format specified by the Minister. However, if no form and format has been so specified, the report or notice may be in any form and format.

**6. Section 6 of the Regulations is replaced by the following:**

**6.** (1) Every person who produces or imports diesel fuel shall keep a record of each batch of diesel fuel produced or imported that indicates the volume of the batch, its date of dispatch or importation and whether the concentration of sulphur of the batch is

- (a) greater than 15 mg/kg but less than or equal to 1000 mg/kg; or
- (b) greater than 1000 mg/kg.

(2) Every person who produces or imports diesel fuel with a concentration of sulphur greater than 15 mg/kg shall, before the dispatch of a batch of that fuel from the production facility or the importation of a batch of that fuel, indicate in a record the date of the dispatch or importation of the batch and

- (a) if the dispatch or importation takes place on or before May 31, 2014, include the statement: "not suitable for use in on-road vehicles, off-road engines, locomotive engines or vessel engines other than those on vessels propelled by a large diesel engine"; or
- (b) if the dispatch or importation takes place after May 31, 2014, include the statement: "not suitable for use in on-road vehicles, off-road engines, locomotive engines, small stationary engines or vessel engines other than those on vessels propelled by a large diesel engine".

(3) Every record made in accordance with subsection (2) shall be maintained, for a period of five years after the record is made, at the production facility in Canada or at the principal place of business of the importer in Canada as identified in the information submitted under subsections 5(4), (5) and (5.1).

7. Schedules 1 and 2 to the Regulations are replaced by the Schedules 1 and 2 set out in the schedule to these Regulations.

**COMING INTO FORCE**

8. (1) Subject to subsection (2), these Regulations come into force on June 1, 2012, but if they are registered after that day, they come into force on the day on which they are registered.

(2) Section 5.1 of the *Sulphur in Diesel Fuel Regulations*, as enacted by section 5 of these Regulations, comes into force 60 days after the day on which these Regulations come into force.

**SCHEDULE (Section 7)**

**SCHEDULE 1 (Subsection 5(1))**

**REPORT OF SULPHUR CONCENTRATION IN DIESEL FUEL**

1. Calendar year \_\_\_\_\_

2. Calendar quarter \_\_\_\_\_

3. Name of producer or importer  
\_\_\_\_\_

4. Name of the facility in Canada at which the diesel fuel is produced or the province of import  
\_\_\_\_\_

5. Civic address (and mailing address if different) of the facility in Canada at which the diesel fuel is produced or the importer's principal place of business in Canada  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Provide the required information for each type of fuel, indicating the volume of diesel fuel in m<sup>3</sup> and the sulphur concentration in mg/kg, in the following table:

**TABLE**

Column 1	Column 2 Diesel Fuel Excluding Biodiesel Fuel and Blends of Biodiesel Fuel and Diesel Fuel	Column 3 Biodiesel Fuel	Column 4 Blends of Biodiesel Fuel and Diesel Fuel
Item Required Information			
1. Diesel fuel with a concentration of sulphur that is less than or equal to 15 mg/kg	_____	_____	_____
(a) Volume of diesel fuel	_____	_____	_____
(b) Highest sulphur concentration	_____	_____	_____
(c) Lowest sulphur concentration	_____	_____	_____

(d) Volume-weighted average sulphur concentration \_\_\_\_\_  
(e) Method used (for reporting purposes) to measure sulphur concentration \_\_\_\_\_

2. Diesel fuel with a concentration of sulphur that is greater than 15 mg/kg but less than or equal to 1000 mg/kg

(a) Volume of diesel fuel \_\_\_\_\_  
(b) Highest sulphur concentration \_\_\_\_\_  
(c) Lowest sulphur concentration \_\_\_\_\_  
(d) Volume-weighted average sulphur concentration \_\_\_\_\_  
(e) Method used (for reporting purposes) to measure sulphur concentration \_\_\_\_\_

3. Diesel fuel with a concentration of sulphur that is greater than 1000 mg/kg

(a) Volume of diesel fuel \_\_\_\_\_  
(b) Highest sulphur concentration \_\_\_\_\_  
(c) Lowest sulphur concentration \_\_\_\_\_  
(d) Volume-weighted average sulphur concentration \_\_\_\_\_  
(e) Method used (for reporting purposes) to measure sulphur concentration \_\_\_\_\_

7. Authorized official

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature and date \_\_\_\_\_

Telephone number ( ) \_\_\_\_\_

Fax number ( ) \_\_\_\_\_

SCHEDULE 2  
(Subsection 5(4))

PRODUCERS OR IMPORTERS OF DIESEL FUEL — REQUIRED INFORMATION

1. Name of producer or importer \_\_\_\_\_

2. Civic address (and mailing address if different) of producer or importer

\_\_\_\_\_  
\_\_\_\_\_

---

---

3. Registration number(s), if any were provided by the Minister under section 7 of the *Benzene in Gasoline Regulations*

---

4. Indicate if one or more of the following apply:

(a) producer in Canada of diesel fuel, excluding biodiesel fuel and blends of biodiesel fuel and diesel fuel, for

- use in on-road vehicles
- use in off-road engines
- use in vessel engines other than those on vessels propelled by a large diesel engine
- use in vessel engines on vessels propelled by a large diesel engine
- use in small stationary engines
- use in large stationary engines
- use in locomotive engines
- use in scientific research
- any other use (specify) \_\_\_\_\_

(b) importer of diesel fuel, excluding biodiesel fuel and blends of biodiesel fuel and diesel fuel, for

- use in on-road vehicles
- use in off-road engines
- use in vessel engines other than those on vessels propelled by a large diesel engine
- use in vessel engines on vessels propelled by a large diesel engine
- use in small stationary engines
- use in large stationary engines
- use in locomotive engines
- use in scientific research
- any other use (specify) \_\_\_\_\_

(c) producer in Canada of biodiesel fuel for

- use in on-road vehicles
- use in off-road engines
- use in vessel engines other than those on vessels propelled by a large diesel engine
- use in vessel engines on vessels propelled by a large diesel engine
- use in small stationary engines
- use in large stationary engines

- use in locomotive engines
- use in scientific research
- any other use (specify) \_\_\_\_\_

(d) importer of biodiesel fuel for

- use in on-road vehicles
- use in off-road engines
- use in vessel engines other than those on vessels propelled by a large diesel engine
- use in vessel engines on vessels propelled by a large diesel engine
- use in small stationary engines
- use in large stationary engines
- use in locomotive engines
- use in scientific research
- any other use (specify) \_\_\_\_\_

(e) importer of a blend of biodiesel fuel and diesel fuel for

- use in on-road vehicles
- use in off-road engines
- use in vessel engines other than those on vessels propelled by a large diesel engine
- use in vessel engines on vessels propelled by a large diesel engine
- use in small stationary engines
- use in large stationary engines
- use in locomotive engines
- use in scientific research
- any other use (specify)

5. For each facility in Canada at which diesel fuel is produced

(a) indicate the name and civic address (and mailing address if different) of the facility

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) indicate the typical annual volume in m<sup>3</sup> of diesel fuel produced for each intended use, according to fuel type, in the following table:

TABLE

Column 1	Column 2	Column 3
Item Intended Use	Diesel Fuel Excluding Biodiesel Fuel and Blends of Biodiesel Fuel and	Biodiesel Fuel

---

Diesel Fuel

---

1. use in on-road vehicles \_\_\_\_\_
  2. use in off-road engines \_\_\_\_\_
  3. use in vessel engines other than those on vessels propelled by a large diesel engine \_\_\_\_\_
  4. use in vessel engines on vessels propelled by a large diesel engine \_\_\_\_\_
  5. use in small stationary engines \_\_\_\_\_
  6. use in large stationary engines \_\_\_\_\_
  7. use in locomotive engines \_\_\_\_\_
  8. use in scientific research \_\_\_\_\_
  9. any other use (specify) \_\_\_\_\_
- 

6. For importers

(a) indicate the civic address (and mailing address if different) for the principal place of business in Canada

---

---

---

(b) indicate each usual point of entry into Canada and usual mode of importation (e.g. ship, rail, truck, pipeline, etc.)

---

---

---

(c) indicate, for each usual point of entry into Canada, the typical annual volume in m<sup>3</sup> of diesel fuel imported for each intended use, according to fuel type, in the following table:

TABLE

---

Column 1	Column 2	Column 3	Column 4
----------	----------	----------	----------

---

Item Intended Use	Diesel Fuel Excluding Biodiesel Fuel and Blends of Biodiesel Fuel and Diesel Fuel	Biodiesel Fuel	Blends of Biodiesel Fuel and Diesel Fuel
1. use in on-road vehicles	_____	_____	_____
2. use in off-road vehicles	_____	_____	_____
3. use in vessel engines other than those on vessels propelled by a large diesel engine	_____	_____	_____
4. use in vessel engines on vessels propelled by a large diesel engine	_____	_____	_____
5. use in small stationary engines	_____	_____	_____
6. use in large stationary engines	_____	_____	_____
7. use in locomotive engines	_____	_____	_____
8. use in scientific research	_____	_____	_____
9. any other use (specify)	_____	_____	_____

7. Authorized official

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature and date \_\_\_\_\_

Telephone number ( ) \_\_\_\_\_

Fax number ( ) \_\_\_\_\_

[49-1-o]

[Footnote 1](#)

A copy of this proposal (International Maritime Organization [IMO] Document MEPC59/6/5, March 27, 2009) is available from Transport Canada on request in either official language.

[Footnote 2](#)

See Table 1.

[Footnote 3](#)

The U.S. diesel fuel rule as amended by 75 FR 22968, April 30, 2010, is available at <http://ecfr.gpoaccess.gov/cgi/t/text/textidx?c=ecfr&sid=4ba4f15672832267cb1c2c82323934f2&rgn=div6&view=text&node=40:16.0.1.1.9.9&idno=40>.

[Footnote 4](#)

Since 2006, the United States Environmental Protection Agency (U.S. EPA) has regulated emissions standards for stationary compression ignition engines and corresponding fuel requirements.

[Footnote 5](#)

“Small stationary engine” means a diesel engine, except for aircraft engines, locomotive engines, vessel engines, off-road engines and engines used to propel on-road vehicles, that has a per-cylinder displacement of less than 30 000 cm<sup>3</sup>.

[Footnote 6](#)

“Large stationary engine” means a diesel engine, except for aircraft engines, locomotive engines, vessel engines, off-road engines and engines used to propel on-road vehicles, that has a per-cylinder displacement equal to or greater than 30 000 cm<sup>3</sup>.

[Footnote 7](#)

Proprietary information reported for 2008 under the *Fuels Information Regulations, No. 1*.

[Footnote 8](#)

As described above in the “Description and rationale” section, the *Sulphur in Diesel Fuel Regulations* currently require that sulphur content in diesel fuel for all ships be limited to 15 mg/kg beginning on June 1, 2012.

[Footnote 9](#)

The 2005 Amendments to the *Sulphur in Diesel Fuel Regulations* stipulate rail diesel sulphur limits of 15 mg/kg for both production and import, along with a 500 mg/kg sulphur limit for sales starting in 2012. The 500 mg/kg limit for sales is in line with the United States limit and is provided to allow for the sulphur contamination of the fuel during transport — an issue for fuel suppliers, not users. Environment Canada consulted extensively on these changes, and no objections were received from the rail industry or others at that time.

[Footnote 10](#)

SOR/2002-254

[Footnote a](#)

S.C. 2004, c. 15, s. 31

[Footnote b](#)

S.C. 1999, c. 33

[Footnote c](#)

S.C. 2008, c. 31, s. 2

[Footnote d](#)

S.C. 2008, c. 31, s. 5

**NOTICE:**

The format of the electronic version of this issue of the *Canada Gazette* was modified in order to be compatible with extensible hypertext markup language (XHTML 1.0 Strict).

Date Modified: 2012-01-04