

Canadian Clean Fuel Regulations Are Now In Force



The long-awaited final Clean Fuel Regulations (the “Regulations”), developed by Environment and Climate Change Canada (“ECCC”) under the *Canadian Environmental Protection Act, 1999* (“CEPA”), were registered on, and are in force as of, **June 21, 2022**.¹ They were published in the *Canada Gazette II* on **July 6, 2022**.²

Some key changes from the draft regulations:

The Regulations include a number of significant changes since the previously published draft (we wrote about the previous draft here). Most notably, only **gasoline** and **diesel** have an annual reduction requirement under the final version of the Regulations, not all liquid fossil fuels as previously proposed.

ECCC has also increased the stringency of the carbon intensity (CI) limits in the final Regulations. The Regulations now require a **3.5 gCO₂e/MJ** reduction in carbon intensity from 2016 baseline levels in 2023, increasing to a **14 gCO₂e/MJ** reduction in carbon intensity by 2030. ECCC has advised that it will not update the carbon intensity limits before 2030 in order to provide certainty to investors and primary suppliers planning for compliance.³

The first carbon intensity reduction requirement now takes effect on **July 1, 2023**, rather than on Dec. 1, 2022 as originally proposed. This will provide for approximately 12 months of early credit creation.

The final Regulations broaden the types of low carbon intensity fuels that are eligible to meet the two per cent volumetric requirement for diesel beyond biodiesel and hydrogenation derived renewable diesel (HARD), to all fuels suitable to be used as a diesel replacement.

The final Regulations also amend Compliance Category 1, *actions throughout the lifecycle of a fossil fuel that reduce its carbon intensity*, to permit credit creation for actions that reduce the carbon intensity of a liquid fossil fuel through GHG emission reduction projects only. ECCC will not provide credits for GHG reduction projects that reduce the lifecycle carbon intensity of gaseous or solid fuels. However, ECCC can allow Category 1 credit creation for projects outside of Canada.

Credit and Tracking System (CATS) registration:

The Credit and Tracking System (“CATS”) is a credit trading system administered by ECCC to facilitate the acquisition of credits and create market opportunities for the deployment of low carbon intensity fuels.

Primary suppliers (gasoline and diesel producers and importers), credit creators, foreign suppliers and carbon intensity contributors can register online now through the CATS website. Once registered, parties can start applying for recognition of CO₂ emission-reduction projects and start creating compliance credits.

All primary suppliers have been given 90 days within which to register. That means that even if a primary supplier imports 400 m³ or more of gasoline or diesel within the first 45 days of the Regulations, they still have until **Sept. 18, 2022** to submit a registration report to ECCC. After that initial 90-day period, primary suppliers have 45 days within which to submit a registration report after the day on which they produced in, or imported into Canada, 400 m³ or more of gasoline or diesel during a compliance period.⁴

A primary supplier’s annual carbon intensity reduction requirement can be met through three main categories of credit-creating actions:

1. **Compliance Category 1:** actions that reduce the carbon intensity of a fossil fuel throughout its lifecycle (e.g., carbon capture and storage, on-site renewable electricity, co-processing);
2. **Compliance Category 2:** supplying low carbon fuels (e.g., ethanol, bio-diesel); or
3. **Compliance Category 3:** supplying fuel or energy to advanced vehicle technology (e.g., electric vehicles or hydrogen fuel cells).

Participants in the credit trading system include primary suppliers and voluntary credit creators. These participants can create, own, transfer and acquire credits through one or more of the three categories above.

Please contact Gowling WLG with any questions about the Regulations, CATS registration and credit creation opportunities.

Important dates:

- **June 21, 2022:** The Regulations were registered and came into force. CATS opened for registration and credit creation.
- **July 6, 2022:** The final, official version of the Regulations was published in the *Canada Gazette Part II*.
- **Summer 2022:** ECCC is offering training and information sessions including two information sessions on accessing CATS to submit registrations on July 20 and August 3.
- **Sept. 18, 2022:** Deadline to submit a registration report for primary suppliers who have already (since June 21, 2022) produced in, or imported into Canada, 400 m³ or more of gasoline or diesel.
- **July 1, 2023:** The mandatory carbon intensity reduction requirements for gasoline and diesel for 2023 take effect.
- **Sept. 30, 2024:** The Regulations will repeal the federal *Renewable Fuels Regulations*,⁵ but the Regulations retain the minimum volumetric requirements

set out in the *Renewable Fuels Regulations*: at least five per cent low carbon intensity fuel content in gasoline and two per cent low carbon intensity fuel content in diesel fuel and light fuel oil.

Supporting documents:

Quantification Methods :

- Quantification Method Development Guidance Document'
- Quantification Method for Low Carbon Intensity Electricity Integration'
- Quantification Method for CO₂ Capture and Permanent Storage'(coming soon)
- Quantification Method for Enhanced Oil Recovery with CO₂ Capture and Permanent Storage
- Generic Quantification Method (coming soon)
- Quantification Method for Co-processing in Refineries (coming soon)

Methods for Verification and Certification :

- Methods for Verification and Certification '

Fuel Life Cycle Assessment ("LCA") Model :

- LCA Model has three main components available in the ECCC Data Catalogue:
 - Fuel LCA Model Database : Contains carbon intensity datasets and fuel pathways developed to model a carbon intensity specific to a fuel / energy source.
 - Fuel LCA Model Methodology : Describes the methodology, data sources and assumptions ECCC used to develop the Fuel LCA Model, and provides the rationale behind the methodological approach.
 - Fuel LCA Model User Manual : Provides information on general definitions and concepts as well as technical guidance on using the openLCA software to perform carbon intensity calculations.

CATS User Guide :

- Clean Fuel Regulations: Credit and Tracking System User Guide for Primary Suppliers, Registered Creators and Foreign Suppliers

Footnotes

1. The Regulations were registered on June 21, 2022. The Privy Council issue date for the Order in Council is June 20, 2022 (Registration SOR/2022-140 June 21, 2022; P.C. 2022-704 June 20, 2022).

2. They came into force on the day that they were registered, i.e., June 21, 2022 (Regulations, s. 176(1)).

3. For carbon intensity limits see the Regulations, section 5(1): TABLE: Fuel Carbon-Intensity Limits.

4. Regulations, s. 10 (1).

5. Regulations, s. 175: "The Renewable Fuels Regulations are repealed"; s. 176(2) "Sections...175 come into force on September 30, 2024."

Read the original article on [GowlingWLG.com](https://www.gowlingwlg.com)

The content of this article is intended to provide a general guide to the

subject matter. Specialist advice should be sought about your specific circumstances.

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