

April 27, 2011

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This letter is the Canadian Petroleum Products Institute (CPPI)¹ response to the Proposed Regulations Amending the Renewable Fuels Regulations, published in the Canada Gazette Part 1 on February 26, 2011. Our submission outlines our response and recommendations for changes to the proposed regulations.

CPPI and its member companies are committed to a **successful** implementation of the renewable diesel component of the federal Renewable Fuels Regulations. However, the proposed start date overlooks important feasibility issues, and many recommendations highlighted in the Government's own sponsored studies.

CPPI is very concerned that the proposed start date of July 1, 2011 for a mandatory national requirement that diesel fuel and home heating oil contain 2% renewable diesel (biodiesel) content may compromise our ability to comply with the regulations.

CPPI and its members have an enviable record of continuously providing high quality product to the market place, in one of the most challenging climates. This record is based upon timely investments decisions and operating changes and additions in order to safely and efficiently deliver the fuel products to the consumers. Inadequate time to engineer, construct and commission the required facilities could lead to unintended consequences.

Our submission proposes a four-point path forward that bridges the gap between the proposed amendment and what Industry considers to be technically and economically feasible to meet the policy objective.

¹ CPPI members: Bitumar Inc., Chevron Canada Limited, Husky Energy Inc., Imperial Oil Limited, North Atlantic Refining Limited, NOVA Chemicals (Canada) Ltd., Parkland Fuel Corporation, Shell Canada Products, Suncor Energy Products Partnership, and Ultramar Ltd .

1. Delay the start date.
2. For the first compliance period, exclude heating oil from the distillate pool on which the 2% requirement is based.
3. Extend the duration of the first compliance period to the end of the second full calendar year after the coming into force.
4. Provide a Trading Period of 3 months, at the end of the pre-compliance period to allow trading of excess Pre-Distillate Compliance Units.

1. Implementation timeframe is insufficient – delay the start date

1.1 Required facilities cannot be physically built within the allocated time

CPPI has expressed in previous communications to the Government of Canada that our overriding concern is the limited implementation timeframe faced by the petroleum industry. We are constantly reminded by federal government bureaucrats and officials that all elements of the regulations are subject to change as a result of the 60-day comment period and therefore it is extremely difficult for our members, and may be impossible for some, to develop and implement plans to meet the proposed July 1, 2011 timeframe.

Biodiesel made from vegetable oils and animal fats is the only renewable diesel currently produced in Canada and the USA that can reasonably be expected to initially supply the Canadian market. In colder temperatures, it thickens and eventually solidifies, creating significant technical feasibility challenges during Canada's colder months. Satisfactory resolution of technical feasibility was a key requirement of the federal government's original announced intention to implement a national 2% renewable diesel requirement by 2012.

Work conducted under the federal government's National Renewable Diesel Demonstration Initiative (NRDDI) identified the need to resolve four key technical feasibility issues to ensure successful implementation, namely: Fuel technology readiness, Technology/end-user application readiness, Infrastructure readiness and finally Market acceptance.

The NRDDI final report acknowledged that in some regions of the country, especially where there are no existing provincial biodiesel mandates, upgrades to infrastructure to "ensure that consumers are not affected by the transition to biodiesel blends" could take up to three years. The NRDDI report further noted that "accelerating lead times in order to meet a mandated regulatory start date can lead to significantly increased costs and may not be possible in some cases".

The downstream petroleum industry is the obligated party in the proposed regulations and consequently shoulders the responsibility for an effective infrastructure to deliver critical and reliable products to the customer. CPPI and its members are concerned that the fuel storage, distribution and transportation infrastructure necessary to compensate for biodiesel's poor low temperature properties will not be in place in all regions of the country until well after July 1, 2011. Based on history, and for the scope of contemplated projects, adequate lead-time of up

to 3 years from date of final regulations gives the regulatory certainty required to make capital investments.

- In the case of Ethanol blending infrastructure, experience to date shows that up to 24 months was required in areas of the country that did not have any renewable mandate, from promulgation of final regulations to market introduction.
- For Renewable Diesel (RD) infrastructure, the inherent characteristics of this biofuel require additional design and planning for cold weather protection resulting in increased implementation periods of anywhere up to 3 years.

Following a request by the Government of Canada in February 2010, under the NRDDI, the downstream petroleum Industry provided detailed information regarding the needed infrastructure that will be required to implement the 2% mandate, including information on infrastructure underway to meet the known Provincial mandates legislated as of January 1, 2010. The conclusions of this study confirmed that, in addition to the 17 facilities under construction/in place by June 2011 to meet earlier promulgated Provincial mandates, an additional 16 large facilities, totalling \$158.9 M of Capital investment will be required to meet the incremental Federal renewable diesel mandate. The report states that these large facilities are required in all 3 regions of Canada, as follows: Western Canada - 3; Central Canada - 6; and, Quebec and Atlantic Canada - 7.

The study report also states that *“the majority of new infrastructure is estimated to be in place by June 2012, assuming a regulatory announcement on July 1, 2010. If the regulatory announcement is made after that date, it can be expected that the majority of new infrastructure will only be in-place **post January 2013.**”* Nearly a year has passed since the report was completed, and the regulations are not yet final.

CPPI recommends that the first compliance period start at a date much later than July 1, 2011.

1.1.2 Inconsistent treatment of industry sectors with respect to implementation timing

CPPI has co-operated with stakeholders in supporting the government policy and the 2% renewable diesel standard. We are very concerned that the Government recognizes the implementation timeframe challenges by authorizing numerous **delays** and **concessions** to biofuel producers regarding the allowed time to reach substantial completion of production facilities, in order to qualify for government/tax payers funding, while at the same time **advancing** the renewable diesel blending obligation on CPPI members from the originally proposed 2012 date, to 2011. On Dec 14, 2009, the Government extended from March 31, 2010 until September 30, 2012 (a 19-month extension) the time allowed to complete biofuel production facilities. On March 24, 2011, it further extended this period to the end of Dec. 2012.

CPPI has previously written to the President of the Treasury Board² to express its concern over the Government`s intention to regulate a RFS without adequate lead time of regulatory

² June 2, 2010, CPPI letter to The Honourable Stockwell Day, P.C., M. P., the President of the Treasury Board

certainty. Without providing adequate lead time, the government approach contradicts the spirit and intent of the Cabinet directive on Streamlining Regulation as it does not limit the cumulative burden and impose the least possible cost on Canadians and Business that is necessary to achieve the intended policy objectives.

1.2 Standards development activity is incomplete

The findings of the NRDDI studies confirmed that the adoption of CAN/CGSB standards associated with biofuel quality and blending³, specific to Canadian conditions of use, is a pre-requisite for success. In the absence of adequate time to complete appropriate fuel quality standards development, consumers may end up with fuel that does not meet fit for use standards, engine performance and warranty requirements, and conflicts with certain provisions of Provincial legislation (see below). Under the most optimistic scenarios, the required biodiesel standards will not reach publication status until late 2011 at the earliest.

1.3 Proposed modification of section 1(1) pre-distillate compliance period significantly reduces compliance flexibility

The current regulations that came into effect on September 1, 2010 contemplated the possibility that the pre-distillate compliance period may extend up to July 31, 2012 (i.e. 19 ½ months from the start of the regulations). The proposed amendment reduces this period to 6 ½ months, which significantly reduces the compliance flexibility that has been an important element of Industry's support for the regulations.

1.4 The Proposed Federal regulations conflicts with existing Provincial regulations

1.4.1 Environmental assessment

We have previously, and on many occasions, alerted the Government that in some provinces, public hearings may be mandatory prior to allowing infrastructure projects to proceed and that this will result in additional delays. For example, in the Province of Québec, two recent biofuel storage tank projects have triggered the Environmental Assessment process that lasted from 18 to 24 months, before the project was authorized to proceed.⁴ This causes conflict between the federal and provincial jurisdictions that will cause infrastructure build delays that are outside industry's control.

³ Relevant CGSB Standards are listed in appendix A

⁴ BAPE (<http://www.mddep.gouv.qc.ca/evaluations/lisprode.htm>)

1.4.2 Product Standards - Loi sur les Produits Pétroliers ⁵

This Legislation states, in CHAPTER II, QUALITY STANDARDS 1997, c. 64, s. 2; 2005, c. 10, s. 4.

“Quality standards”.

5. The Government may determine, by regulation, quality standards applicable to petroleum products.

Prohibition.

No person may manufacture or sell a petroleum product that does not meet the regulatory standards.

This regulation lists Québec quality requirements for aviation gasolines, aviation turbine fuels, automotive gasolines, gasolines containing fuel ethanol, diesel fuels, diesel fuels containing biodiesel fuel, stove oil, furnace oil, and heavy fuel oil. Amendments and editions published after April 1, 2007, apply 90 days after the last day of the month that the French text of the amendments or editions was published”

Even if the necessary standards can be completed by the end of 2011, adherence to the 90 day provision noted above would prevent the lawful introduction of renewable diesel in the province of Québec until late Q1 or early Q2 2012. Any unforeseen delays in adopting the Standards would result in further delays in allowing the lawful introduction of renewable diesel into the Québec market place.

Furthermore, the current definition of “mazout” (distillate Heating Oil) from the Provincial regulation does not contain provisions for biodiesel content. As a result, distillate heating oil may not contain biodiesel until such time as the standard (CAN/CGSB 3.2) is finalized, or the Québec legislation amended.

2. Distillate Heating Oil must be excluded from the first compliance period

Heating Oil is predominantly used in Eastern Canada (Ontario and East), where the infrastructure readiness is least advanced, as described in the NRDDI infrastructure report. This increased challenge can be mitigated by providing added compliance flexibility, in the early stage of the regulations. A logical consequence would be that Distillate Heating Oil be excluded from the first compliance period to also allow resolution of the Standards development and/or amendment of the Québec’s legislation.

This can be accomplished by adding the following after section (j) under section 6.4: Excluded Volumes

And

(k) distillate heating oil sold or delivered for use as heating oil, during the first compliance period

⁵ *Loi sur les Produits Pétroliers*, R.S.Q., c. P-29.1. *Règlement sur les Produits Pétroliers*, D.226-2007, 2007 G.O. 2, 1668B or *Petroleum Products Act*, R.S.Q., c. P-29.1, *Petroleum Products Regulation*, O.C. 226-2007, 2007 G.O. 2, 1244B Also available on-line at www2.publicationsduquebec.gouv.qc.ca/home.php.

3. Duration of the first distillate compliance period to include 2 full calendar years

The introduction of Biodiesel in the Canadian market place in large quantities as sought by these regulations poses unique challenges, and requires extensive building of new infrastructure, adaptation of the supply and distribution chain, as well as new import capabilities. The poor cold weather properties associated with FAME biodiesel need to be dealt with, generally by the addition of Kerosene, which in turn need to be desulphurized, in order to meet the Diesel sulphur limit of 15 ppm, as regulated under the Canadian Environmental Protection Act (CEPA).

It is generally accepted that it may not be practical, nor feasible to blend FAME based Biodiesel in colder months, in many areas of Canada, and that higher than 2% blends are more suitable for the warmer climatic zones of the country. This seasonal aspect dictates careful management and would be facilitated by including 2 full summers in the initial compliance period. CPPI thus recommends that, similar to the ethanol provisions per section 1 (1) “gasoline compliance period” (a), the first compliance period begins on a date (yet to be determined, but much later than the proposed July 1, 2011 date) and that ends on December 31 of the second complete calendar year after the year it came into force. Moreover, the duration of the first distillate compliance period should not be shorter than the first gasoline compliance period (currently 24.5 months).

4. Provide a 3-month trading period after the end of the pre-distillate compliance period to allow trading of Compliance Units

Such provision already exists under the definition of “trading period” in section 1 (1), by defining the trading period “..that ends on March 31st of the calendar year following the end of the compliance period”. CPPI seeks confirmation that in the case of the pre-distillate compliance period, Compliance Units that are carried forward to the “distillate compliance period”, per section 22 (3) can be traded **either** by the end of March 31st of the calendar year following the end of the compliance period, **or**, by the last day of the 3rd month following the end of the pre-distillate compliance period.

Other comments on specific sections:

In addition to our preceding comments pertaining to sections 1 (1) and 1 (2) of the proposed amendment, CPPI would like to confirm that it supports the proposed amendment 2 (2) that amends section 4, by adding a new subsection (9) to maintain consistency with industry standards.

With regards to the other amendments, they essentially deal with minor inconsistencies and we have no further comments to offer.

Once again, we want to assure you that CPPI and its members are eager to work with you to ensure a successful implementation of the renewable diesel aspects of the Federal Renewable Fuels Regulations. It is in the interest of all affected stakeholders – the Federal Government, the downstream petroleum products sector and the renewable diesel suppliers – that consumers

continue to hold in high confidence the reliability, quality and availability of transportation and heating fuel choices.

CPPI urges the government to reconsider its current timetable and re-affirms its willingness to work with all stakeholders to achieve a seamless and successful implementation of the renewable diesel mandate.

Yours truly,

A handwritten signature in black ink, appearing to read "PS Boag". The signature is written in a cursive style with a large, sweeping flourish at the end.

Peter Boag
CPPI President

Cc: Doug Heath / Mike Rau, Natural Resources Canada
Margaret Meroni, Environment Canada
Keith Quach, Industry Canada

Appendix A: Associated CGSB Standards

Number	Title
	Relevant Middle Distillate based CGSB Standards
CAN/CGSB-3.2	Heating Fuel Oil
CAN/CGSB-3.520	Automotive Low-Sulphur Diesel Fuel Containing Low Levels of Biodiesel Esters (B1-B5)
CAN/CGSB-3.522	Automotive Low-Sulphur Diesel Fuel Containing Biodiesel Esters (B6 to B20)
CAN/CGSB-3.524	Biodiesel (B100)blendstock for use in middle distillate fuels

Appendix B: CPPI comments on the RIAS for 2% renewable diesel

Federal Renewable Fuels Regulations (RFR) Draft RIAS (Gazette 1) – February 26 2011

CPPI has reviewed the Regulatory impact assessment associated with the regulations, as well as the consultant reports that were made available. We would like to offer a few observations and also make some recommendations as follows:

We note that contrary to most Regulations to which our Industry has been subject to under CEPA in recent years, and that were justified on a balance of a cost-benefit analysis that showed that the benefits exceeds costs, the justifications contained in the RIAS indicate that the **costs** to Canadian Industry and consumers **exceed the benefits** by a factor of 1.2 to 1, and that the socio-economic cost of Carbon of \$120.8 per tonne of CO₂e avoided far exceeds its benefits by a ratio of nearly 5 to 1, as shown in table 14.

The RIAS, in the “issue” on pages 694 and 695 provides a general description of the National Renewable Diesel Demonstration Initiative led by Natural Resources Canada, and concludes that the Renewable Diesel can meet the Canadian petroleum industry accepted standards, subject to timing considerations for infrastructure readiness. CPPI takes strong exception to the statement that “*now that technical feasibility has been demonstrated, Environment Canada is proposinga coming into force date of July 1, 2011*”. This is misleading and contradicts the majority of the findings of the government’s studies under the NRDDI program, and its Cost-benefit Analysis reports. During the course of the NRDDI program, valuable insight has been gained on the impact of various biodiesel types and renewable diesel blends under Canadian conditions. In some cases, the **gap between experimentation and practical application remains substantial and must be adequately addressed** in the final decision-making to ensure a seamless introduction of biodiesel blends into the market place.

Those **findings need to be taken under consideration by the Standards setting organizations, such as CGSB**, to develop and adopt the required standards that will ensure consumers that the new products are fit for intended purpose, when introduced into the market. **CPPI does not support the introduction in the market place, of a new fuel products, without the appropriate standards.**

The introduction of Renewable diesel and Biodiesel blends requires extensive and careful planning, as it impacts on many segments of the supply chain, from Refinery to storage, blending and distribution. **Sufficient time must be available**, from regulatory certainty, **to allow proper infrastructure design, construction and commissioning**. For example, the NRDDI work provided direction on blending components (ULSK & HDRD) requirements and biodiesel attributes (SMG) of concern that require addressing, in order to mitigate the risks to customers of using biodiesel blends under severe Canadian winter operating conditions. We remain concerned that many of the initiatives understate the logistical challenges in

sourcing/transporting the required blending components. The NRDDI NRCan Biodiesel Distribution Infrastructure Analysis provided the Government with a detailed timetable of required facilities, cost information and blending requirements, and market impact by region. Most important, it identified the required timing to complete implementation of the required infrastructure that will minimize the impact to the consumers. Only when these issues have been appropriately addressed, can technical readiness be declared.

National context – pages 697 to 699

We note that this section describes in detail the various elements and timing of the Government's Renewable Fuels Strategy. One of the programme in support of the Strategy is the ecoENERGY programme that allocated \$1.5B over nine years to support Canadian production of renewable fuels. Details of the programme, as of March 24, 2011 show that the initial deadline for substantial completion of proposed facilities has been extended on at least 3 occasions and that latest approved proposals can now demonstrate advanced state of readiness by the end of 2012, with actual production thereafter (i.e. Spring 2013 or later?) .

Page 699: United States

The conversion of gallons to litres overstates the USA volume required by RFS2 by 28 Billion litres annually. **This should be corrected**

Page 701: The section describing the Petroleum Refining sector incorrectly states 7,400 employees in the sector. More recent data suggest this number be approximately 18,000. This should be corrected. It should also be mentioned that the complete supply chain extends beyond the refining sector and that the renewable fuel requirements have implications for of the distribution and retail sector, that contribute a further 80,000 jobs to the Canadian economy.

Page 704: The description of the agricultural sector overstates by a factor of at least 50x the relative contribution of this sector to the GDP, and improperly lumps it together with Forestry and Fishing and Hunting. A more appropriate comparison should only include the "biofuel feedstock" production for fuel use, as opposed to food, forest, fish and games economic activity

[Page 705: The discussion on the impact of lower energy content of biofuels (7th Par.) stating that it is not noticeable and that no change in fuel consumption is observed is not appropriate as fuel consumption ratings are determined by standardized testing and analytical procedures approved by government agencies. (see ecoENERGY Fuel Consumption Guide 2011)].

Pages 705, 708 and 725: The RIAS refers to "pour point depressants". This usage is incorrect. Pour Point Depressants (PPD) are specific types of Flow Improver that are used in furnace oil to lower the pour point. Typically they have minimal effect on the cloud point of a diesel fuel and so are not effective in improving the cold operability of fuel as used in diesel powered vehicles.

Page 706: The term HVO is also not technically correct as this product can be made from non-vegetable sources. The general term being used in industry is HDRD (Hydrogenation Derived Renewable Diesel). HVO would be a subset of HDRD.

Page 709: The RIAS refers to “HVO” when the more correct term would be “HDRD”. It also assumes that Palm oil would be the preferred feedstock.

Page 711: The RIAS mentions the use of HDRD from April to September; then includes March & October in the months requiring Kerosene for biodiesel blending. This understates the amount of ULSK required. Depending on the actual cold flow properties of the HDRD, ULSK may be required during the April to Sept. period. This should be corrected in the final analysis.

Page 711 & 712: The RIAS states that canola fatty acid methyl esters have a lower (or colder) cloud point than soy or tallow but Table 9 shows soy as having the coldest cloud point (-3 versus +2 for Canola & +15 for Tallow). Actual cloud points were tested during the NRDDI ARDD programs and results are available from the Renewable Diesel Characterization Study at www.renewablediesel.ca

Page 712: The RIAS states: “Kerosene is assumed to be imported mostly from the United States.” Industry’s experience indicates this is incorrect. The sources for ULS Kerosene seem to be outside of North America. Newer information should be sought to better reflect most recent market conditions.

Page 713: In addition to the administrative costs to measure, report and record keeping, there are additional administrative costs to Government for introducing the Regulations. These costs should be reflected in the RIAS, as these are the development and on-going maintenance, update of CGSB standards, and publication under the Standards Council of Canada, under the department of Public Works and Government Services Canada.

Page 713: The RIAS states that HVO “has a slightly (about 2%) higher energy content than fossil diesel.” It should specify that this is on a MASS basis, not a VOLUME basis.

Page 720: The RIAS states that 4,000 employment positions are created. How are those numbers derived from direct employment of 200 stated on the same page? Is it based on established methodology and peer reviewed studies?