



## States' Biofuels Statutes

### STATE OF WISCONSIN

*This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).*

*Current through the 2013 Legislative Session of the Wisconsin General Assembly.*

#### **100.60. State renewable fuels goal**

**(1) Definitions.** In this section:

(a) "Biodiesel" means a fuel that is comprised of monoalkyl esters of long chain fatty acids derived from vegetable oils or animal fats and that meets all of the applicable requirements of the American Society for Testing and Materials.

(b) "Diesel-replacement renewable fuel" means any of the following:

1. Biodiesel.

2. Any other fuel that can substitute for petroleum-based diesel fuel, that is derived from a renewable resource, that meets all of the applicable requirements of the American Society for Testing and Materials for that fuel, and that the department of safety and professional services designates as a diesel-replacement renewable fuel under sub. (7)(a).

(c) "Gasoline-replacement renewable fuel" means any of the following:

1. Ethanol.

2. Any other fuel that can substitute for gasoline, that is derived from a renewable resource, that meets all of the applicable requirements of the American Society for Testing and Materials for that fuel, and that the department of safety and professional services designates as a gasoline-replacement renewable fuel under sub. (7)(b).

(d) "Motor vehicle fuel" means any substance used to fuel motor vehicles used for transportation on public roadways.

(e) “Renewable fuel” means a gasoline-replacement renewable fuel or a diesel-replacement renewable fuel.

**(2) Goals.** (a) *Definitions.* In this subsection:

1. “Federal advanced biofuel volume” means the volume for the year listed in [42 USC 7545\(o\)\(2\)\(B\)\(i\)\(II\)](#) or determined by the federal environmental protection agency under [42 USC 7545\(o\)\(2\)\(B\)\(ii\)](#) for advanced biofuel, except as provided under par. (d).

2. “Federal biomass-based diesel volume” means the volume for the year listed in [42 USC 7545\(o\)\(2\)\(b\)\(i\)\(IV\)](#) or determined by the federal environmental protection agency under [42 USC 7545\(o\)\(2\)\(B\)\(ii\)](#) for biomass-based diesel, except as provided under par. (d).

3. “Federal cellulosic biofuel volume” means the volume for the year listed in [42 USC 7545\(o\)\(2\)\(B\)\(i\)\(III\)](#) or determined by the federal environmental protection agency under [42 USC 7545\(o\)\(2\)\(B\)\(ii\)](#) for cellulosic biofuel, except as provided under par. (d).

4. “Federal diesel-replacement renewable fuel percentage” means the number calculated as follows:

a. Subtract the sum of the federal cellulosic biofuel volume and the federal biomass-based diesel volume from the federal advanced biofuel volume.

b. Subtract the amount determined under subd. 4. a. from the federal renewable fuel volume.

c. Divide the federal biomass-based diesel volume by the amount determined under subd. 4. b.

5. “Federal diesel-replacement renewable fuel volume” means the volume calculated as follows:

a. Subtract the sum of the federal cellulosic biofuel volume and the federal biomass-based diesel volume from the federal advanced biofuel volume.

b. Multiply the federal diesel-replacement renewable fuel percentage by the amount determined under subd. 5. a.

c. Add the federal biomass-based diesel volume to the amount determined under subd. 5. b.

6. “Federal gasoline-replacement renewable fuel volume” means the volume calculated by subtracting the federal diesel-replacement renewable fuel volume from the federal renewable fuel volume.

7. “Federal renewable fuel volume” means the volume for the year listed in [42 USC 7545\(o\)\(2\)\(B\)\(i\)\(I\)](#) or determined by the federal environmental protection agency under [42 USC 7545\(o\)\(2\)\(B\)\(ii\)](#) for renewable fuel, except as provided under par. (d).

8. “State percentage of motor vehicle fuel sold nationally” for a year means the number calculated as follows:

a. For each of the 3 years that preceded the year, divide the total volume of motor vehicle fuel sold in this state by the total volume of motor vehicle fuel sold nationally. If complete information for the most recent year is unavailable, the department may estimate sales for that year.

b. Add the quotients calculated in subd. 8. a. and divide by 3.

9. "Year" means the year for which the gasoline-replacement renewable fuel goal or diesel-replacement renewable fuel goal is being determined.

(b) *Gasoline-replacement renewable fuels sales volume.* The state goal for the minimum annual volume of gasoline-replacement renewable fuels sold in motor vehicle fuel in the state for a year is an amount calculated as follows:

1. Multiply the federal gasoline-replacement renewable fuel volume for the year by 1.1.

2. Multiply the amount determined under subd. 1. by the state percentage of motor vehicle fuel sold nationally for the year.

(c) *Diesel-replacement renewable fuels sales volume.* The state goal for the minimum annual volume of diesel-replacement renewable fuels sold in motor vehicle fuel in the state for a year is an amount calculated as follows:

1. Multiply the federal diesel-replacement renewable fuel volume for the year by 1.1.

2. Multiply the amount determined under subd. 1. by the state percentage of motor vehicle fuel sold nationally for the year.

(d) *Federal volume adjustments.* 1. The department shall adjust a volume specified in par. (a)1., 2., 3., or 7., in accordance with any waiver to the volume granted by the federal environmental protection agency under [42 USC 7545\(o\)\(7\)](#).

2. The department shall adjust a volume specified in par. (a)1., 2., 3., or 7., by rule if the department determines that the regulations of the federal environmental protection agency adopted under [42 USC 7545\(o\)](#), other than [42 USC 7545\(o\)\(7\)](#), result in the actual volume of one of these types of fuel that is required to be sold under [42 USC 7545\(o\)](#) differing from the corresponding volume specified under par. (a)1., 2., 3., or 7.

**(3) Annual sales determination.** (a) Annually, beginning in 2011, the department, in cooperation with and with assistance from the department of safety and professional services and the department of revenue, shall determine whether the annual goals for sales of renewable fuels in sub. (2)(b) and (c), for the previous year, were met in the state in that year.

(b) The department may not include sales of gasoline-replacement renewable fuel or diesel-replacement renewable fuel in making the determination under par. (a) unless the fuel meets or exceeds applicable requirements for greenhouse gas emissions reduction under [42 USC 7545\(o\)\(1\)\(B\)\(i\), \(D\), \(E\) or \(2\)\(A\)\(i\)](#) or under [42 USC 7545\(o\)\(4\)](#).

**(4) Assessment.** (a) Except as provided in par. (b), if the department determines under sub. (3)(a) that an annual goal for sales of renewable fuels in sub. (2)(b) or (c), was not met, the department shall assess the cause and report its findings to the governor and, under [s. 13.172\(3\)](#), to the standing committees of the legislature that oversee issues related to renewable fuel. The department shall include all of the following in the assessment:

1. A determination of whether renewable fuels are available in sufficient quantities and at prices comparable to the type of fuel that they replace, and if so, whether fluctuations in demand for renewable fuels are a cause of sales below the goal.
2. A determination of whether state or federal laws prevent or impede the sale of the renewable fuels in volumes that meet the goals in sub. (2).
3. An assessment of the motor vehicle fuel production, distribution, and marketing systems in this state to determine how practices could be changed to increase the volume of renewable fuel sold in this state.
4. A determination of whether requirements for renewable fuel sales by individual refiners, wholesalers, suppliers, distributors, retailers, or any other persons involved in the production, distribution, or marketing of motor vehicle fuel, would likely result in sales of volumes of renewable fuels that meet the goals in sub. (2).

(b) If the department determines under sub. (3)(a) that an annual goal for sales of gasoline-replacement renewable fuels or diesel-replacement renewable fuels in sub. (2)(b) or (c), was not met in a year, the department has conducted an assessment under par. (a) for a previous year for the same category of renewable fuels, and the department determines that another assessment for the same category of renewable fuels will not further the purposes of this section, an assessment and report to the governor and the legislature under par. (a) are not required.

**(6) Reporting.** (a) The department shall consult with the department of safety and professional services and the department of revenue to determine if information necessary to make a determination under sub. (3)(a) or an assessment under sub. (4) is being collected by these agencies under laws in effect on June 2, 2010. If the information is not being collected, the department may request the department of safety and professional services and the department of revenue to collect the information if collection by one of these agencies is more cost-effective for state government and less burdensome for the persons subject to the reporting requirements than collection of the information by the department.

(b) The department may require refiners, wholesalers, suppliers, distributors, retailers, or any other person involved in the production, distribution, or marketing of motor vehicle fuel to report information necessary to make a determination under sub. (3)(a) or an assessment under sub. (4).

(c) If the department requires the reporting of information under par. (b), the department shall require the reporting of information relating to the feedstocks used to produce a renewable fuel sold in this state unless the department determines that this information is not reasonably available.

(d) The department of revenue may collect information requested by the department under par. (a) in the reports under [s. 78.12\(1\)](#) to [\(3\)](#).

**(7) Department of safety and professional services authority.** (a) The department of safety and professional services may promulgate a rule designating a fuel that can substitute for petroleum-based diesel fuel, that is derived from a renewable resource, and that meets all of the applicable requirements of the American Society for Testing and Materials for that fuel as a diesel-replacement renewable fuel for the purposes of this section.

(b) The department of safety and professional services may promulgate a rule designating a fuel that can substitute for gasoline, that is derived from a renewable resource, and that meets all of the applicable requirements of the American Society for Testing and Materials for that fuel as a gasoline-replacement renewable fuel for the purposes of this section.

**(8) Penalties.** (b) Any person who fails to provide to the department information required under sub.(6)(b) shall forfeit not more than \$1,000 for each violation.

(c) Each violation of a requirement to provide information under sub. (6)(b) constitutes a separate offense, and each day of continued violation is a separate offense.

(d)1. In lieu of any other penalty under this subsection, the department may directly assess a forfeiture by issuing an order against any person who violates a requirement to provide information under sub. (6)(b). The department may not assess a forfeiture exceeding \$5,000 for each violation.

2. The department shall promulgate rules specifying the procedures governing the assessment of forfeitures under this paragraph including all of the following:

- a. The procedure for issuing an order for an alleged violation.
- b. The amount of a forfeiture that the department may assess for an alleged violation, subject to the limit in subd. 1. and the considerations in par. (e).
- c. The procedure for contesting an order issued for an alleged violation.
- d. The procedure for contesting the assessment of a forfeiture for an alleged violation.

3. The department shall remit all forfeitures paid under this paragraph to the secretary of administration for deposit in the school fund.

4. All forfeitures that are not paid as required under this paragraph shall accrue interest at the rate of 12 percent per year.

5. The attorney general may bring an action in the name of the state to collect any forfeiture imposed, or interest accrued, under this paragraph if the forfeiture or interest has not been paid after the exhaustion of all administrative and judicial reviews.

(e) A court imposing a forfeiture under par. (b) or the department imposing a forfeiture under par. (d) shall consider all of the following in determining the amount of the forfeiture:

1. The appropriateness of the amount of the forfeiture considering the volume of business of the person subject to the forfeiture.
2. The gravity of the violation.
3. Any good faith attempt to achieve compliance after the person receives notice of the violation.