



COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF AGRICULTURE | DENNIS C WOLFF, SECRETARY

To: Honorable Members of the Pennsylvania General Assembly

Cc: Honorable Edward G. Rendell, Governor

From: Dennis C Wolff, Secretary, Pennsylvania Department of Agriculture

Date: August 27, 2009

Re: Act 78 of 2008 – The Biofuel Development and In-State Production Incentive Act –
Report to the General Assembly: 2% Biodiesel Infrastructure Certification

On behalf of the Pennsylvania Departments of Agriculture and Transportation, I am pleased to provide the attached report certifying there is sufficient infrastructure in this Commonwealth to meet the requirements as prescribed by the Biofuels Development and In-State Production Incentive Act 78 of 2008.

The mission of ensuring self reliance on our energy needs and investing in our economy, our communities and strengthening our national security takes on increased significance in the face of the current financial crisis. We remain committed to our role in developing alternative fuel industries throughout the Commonwealth, especially fostering locally based production and usage which contributes to our energy independence goals for the future.

In 2008, Governor Rendell signed two pieces of legislation. These new laws—Special Session Act 2 and Act 78, will move us forward to replacing one billion gallons of imported, foreign oil with clean, home-grown alternative fuels. Under Act 2; the state's Alternative Fuels Incentive Grant program is now providing up to \$5.3 million annually through June 2011 to encourage the production of ethanol and biodiesel. Act 78 will require that every gallon of diesel fuel use an increasing percentage of biodiesel as in-state production levels increase and reach defined thresholds. Thanks to the drive of our state's biodiesel producers, we quickly reached the first in-state production threshold, triggering a B2 mandate. In 2010, every gallon of on-road diesel fuel sold in Pennsylvania will contain at least two percent biodiesel.

Looking forward, efforts are already underway to ensure this program is implemented effectively and efficiently to serve diesel fuel consumers and to successfully integrate clean, green renewable fuels onto Pennsylvania's roadways.

Thank you for your attention to this report. It is a critical part in our efforts to keep Pennsylvania growing.

Sincerely,

A handwritten signature in black ink, appearing to read "D Wolff".

Dennis C Wolff



Report to the
Pennsylvania General Assembly
on 2% Biodiesel Infrastructure Certification
by
the Pennsylvania Department of Agriculture &
the Pennsylvania Department of Transportation

As prescribed by Act 78 of 2008

August 2009



Report to the Pennsylvania General Assembly Biodiesel Infrastructure Certification

Acknowledgements

This report, mandated by Act 78 of 2008, was compiled by the Pennsylvania Department of Agriculture (Department) to serve as a certification to the General Assembly of the ability of Pennsylvania's on-road diesel fuel infrastructure to successfully handle, store, blend and distribute biodiesel blended fuels as prescribed by Section 6 (a) of Act 78. In-state production volumes required by Section 3 (a)(1) were reached by the end of August 2008 as determined by the Department in January 2009.

The development of this report would not have been possible without the collaboration of other state agencies with the Department. It is for this reason, the Department acknowledges the assistance from the following state agencies:

- Pennsylvania Department of Transportation
- Pennsylvania Department of Environmental Protection
- Pennsylvania Department of Revenue

The Department would also like to acknowledge the assistance of the Minnesota Departments of Agriculture and Commerce for providing their expertise and experiences in infrastructure development, proper methods of fuel handling and quality assurance programs which will assist the Commonwealth in effectively managing Act 78 and ensuring a quality program and product to Pennsylvania's consumers.

Report to the Pennsylvania General Assembly B2 Biodiesel Infrastructure Certification

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I. Abstract

The purpose of this report, which is required by Act 78 of 2008, is to assess and provide a determination as to whether sufficient infrastructure exists to support the distribution of biodiesel, specifically B2, throughout Pennsylvania. In preparation for this report the Department used two separate methods to compile information in support of the determination included in this report. The Department has completed three statutorily-required public hearings (5/18/2009-Pittsburgh, 5/20/2009-State College, 5/22/2009-Allentown). Industry stakeholders testified and submitted written testimony; these transcripts are available on the Departments publicly accessible website. The Department has also conducted Infrastructure Assessment surveys of the pipeline fuel terminal operators in the Commonwealth in 2009 (See Section VI – Infrastructure Assessment), as well as multiple stakeholder meetings to gather input on infrastructure preparedness. The information collected has enabled the Department to assess the infrastructure, providing for a certification that accurately represents Pennsylvania’s capability to distribute and consume B2 biodiesel blends.

II. General Requirements of Act 78 of 2008

1. CERTIFICATION - At least six months prior to the effective dates of the mandated content requirements contained in sections 3(a)(1), (2), (3) and (4) and 4, the department and the Department of Transportation shall jointly make a certification as to whether there is sufficient transportation, distribution and other necessary infrastructure, including rail capability and terminal facilities, in this Commonwealth to meet the requirements of this act.
2. HEARING - The department and the Department of Transportation shall conduct at least three public hearings across this Commonwealth for each report required under this act.
3. POSTING - The infrastructure reports shall be submitted to the General Assembly and posted and maintained on each department's publicly accessible Internet website.
4. INSUFFICIENT INFRASTRUCTURE - If any infrastructure report determines that there is insufficient infrastructure in place to meet any of the mandated volume standard requirements, that mandated content requirement shall be delayed at least six months or until the department and the Department of Transportation certify that sufficient infrastructure is in place through the issuance of a new infrastructure report, whichever is later.

III. Act 78 of 2008

PENNSYLVANIA STATUTES
TITLE 73. TRADE AND COMMERCE
CHAPTER 18H. BIOFUEL DEVELOPMENT AND IN-STATE PRODUCTION
INCENTIVE ACT

73 P.S. § 1650.1 (2008)

§ 1650.1. Short title

This act shall be known and may be cited as the Biofuel Development and In-State Production Incentive Act.

§ 1650.2. Definitions

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"BIODIESEL." A renewable, biodegradable, mono alkyl ester combustible liquid fuel that meets American Society for Testing and Materials Specification D-6751-02, or its successor standard, Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

"CELLULOSIC ETHANOL." The term shall have the same meaning as cellulosic biofuel set forth in section 211(o)(1)(E) of the Clean Air Act (69 Stat. 322, 42 U.S.C. § 7545(o)(1)(E)), as amended by section 201 of the Energy Independence and Security Act of 2007 (P.L. 110-140, Title II, Subtitle A, § 201, 121 Stat. 1519 (2007)).

"DEPARTMENT." The Department of Agriculture of the Commonwealth.

"NONPETROLEUM RENEWABLE RESOURCES." Vegetable oils, animal fats or animal wastes.

"RENEWABLE DIESEL." A nonester diesel fuel or fuel blending component derived from nonpetroleum renewable resources that meets all of the following criteria:

- (1) Is used to replace or reduce the quantity of fossil fuels present in fuels sold to the consumer.
- (2) Is registered under 40 CFR Pt. 79 (relating to registration of fuels and fuel additives) for motor vehicle fuels or fuel additives.
- (3) Meets an established American Society for Testing and Materials Specification, such as D975 for diesel fuels or D396 for fuel oils.
- (4) Is compatible for use in engines and equipment designed to run on conventional petroleum diesel fuels.
- (5) Is derived from renewable content at the percentages required by this act.

§ 1650.3. Biodiesel content in diesel fuel sold for on-road use

- (a) VOLUME STANDARDS.-- The following standards shall apply:

- (1) All diesel fuel sold or offered for sale to ultimate consumers in this Commonwealth for use in on-road compression ignition engines must contain at least 2% biodiesel by volume one year after the in-State production volume of 40,000,000 gallons of biodiesel has been reached and sustained for three months on an annualized basis as determined by the department.
 - (2) All diesel fuel sold or offered for sale to ultimate consumers in this Commonwealth for use in on-road compression ignition engines must contain at least 5% biodiesel by volume one year after the in-State production volume of 100,000,000 gallons of biodiesel has been reached and sustained for three months on an annualized basis as determined by the department.
 - (3) All diesel fuel sold or offered for sale to ultimate consumers in this Commonwealth for use in on-road compression ignition engines must contain at least 10% biodiesel by volume one year after the in-State production volume of 200,000,000 gallons of biodiesel has been reached and sustained for three months on an annualized basis as determined by the department.
 - (4) All diesel fuel sold or offered for sale to ultimate consumers in this Commonwealth for use in on-road compression ignition engines must contain at least 20% biodiesel by volume one year after the in-State production volume of 400,000,000 gallons of biodiesel has been reached and sustained for three months on an annualized basis as determined by the department.
- (b) **APPLICABILITY OF STANDARDS.**- The volume standards mandated in subsection (a)(3) and (4) shall be effective only if the department, in cooperation with the Department of Transportation and the Department of Environmental Protection, makes a determination that manufacturers of diesel-fueled vehicles that are sold in this Commonwealth have indicated publicly that they will not void or withdraw vehicle engine warranties due to the use of biodiesel blends at the percentages contained in the corresponding subsection. This determination shall be published in the Pennsylvania Bulletin and transmitted to the Majority Leader and the Minority Leader of the Senate and the Majority Leader and the Minority Leader of the House of Representatives.
- (c) **CALCULATIONS.** - The department, in cooperation with the Department of Environmental Protection, shall determine by June 30, 2009, and each June 30 thereafter, the name and location of each biodiesel production facility located within this Commonwealth, the amount of biodiesel produced by the biodiesel production facility in the preceding year and an amount and description of any financial assistance made available to the biodiesel production facility by the Commonwealth in the preceding year.
- (d) **COAL-TO-LIQUIDS SUBSTITUTION.** - Nonsulfur diesel fuel derived from coal may be used in place of biodiesel to meet the requirements of this section, provided that the fuel's carbon emissions are fully offset, either through carbon sequestration or by participation in carbon offset programs.
- (e) **RENEWABLE DIESEL SUBSTITUTION.** - Renewable diesel produced in this Commonwealth may be used in place of biodiesel to meet the volume standard requirements of this section, up to a maximum of 25% of the volume of biodiesel necessary to meet the statewide mandated contents required by this act. Within 180

days of the effective date of this section, the department, in collaboration with the Department of Environmental Protection, may establish reporting requirements to ensure renewable diesel meets the requirements of this act.

- (f) EXCEPTION. - The requirements of this section shall not apply to aviation fuel, home heating fuel or where prohibited by law.

§ 1650.4. Cellulosic ethanol content in gasoline

- (a) CELLULOSIC ETHANOL CONTENT REQUIRED. - All gasoline sold or offered for sale to ultimate consumers in this Commonwealth must contain at least 10% cellulosic ethanol by volume as determined by an appropriate Environmental Protection Agency or American Society for Testing Materials standard method of analysis one year after the in-State production volume of 350,000,000 gallons of cellulosic ethanol has been reached and sustained for three months on an annualized basis as determined by the department.
- (b) RENEWABLE FUEL SUBSTITUTION. - A person may apply to the department for approval to use renewable fuel other than cellulosic ethanol to meet the requirements of this section. The applicant shall demonstrate that the renewable fuel complies with regulations promulgated by the department which shall include, at a minimum, the following criteria:
 - (1) Meets the requirements of 40 CFR Pt. 79 (relating to registration of fuels and fuel additives).
 - (2) Has an emissions profile at least as environmentally protective as the cellulosic ethanol that the proposed renewable fuel is replacing or can demonstrate commensurate environmental or cost-effective benefits as defined by the department.
 - (3) Is suitable for use in motor vehicle engines.
 - (4) Is derived from renewable resources or feedstock.
- (c) EXCEPTION. - The requirements of this section shall not apply to gasoline sold in regions of this Commonwealth where the use of cellulosic ethanol would violate, conflict with or otherwise exacerbate compliance with a National Ambient Air Quality Standards State Implementation Plan.

§ 1650.5. Agency responsibilities

- (a) COMPLIANCE. - With the exception of section 3(d), the department shall ensure compliance with this act and, in consultation with the Department of Transportation and the Department of Environmental Protection, shall promulgate regulations as necessary to implement and enforce the requirements of this act.
- (b) ENVIRONMENTAL QUALITY BOARD. - The Environmental Quality Board shall promulgate regulations as necessary to ensure compliance with the carbon offset requirements of section 3(d).
- (c) REPORT. - Beginning one year from the effective date of this act and each year thereafter, the Department of Conservation and Natural Resources shall report on the effect, if any, of in-State production of cellulosic ethanol from woody biomass on forest health, condition and productivity.

- (d) **REDUCTION.** - The department, in consultation with the Department of Environmental Protection, may suspend or modify to reduce the mandated contents required by section 3 or 4 if the department determines that doing so is warranted by factors, including, but not limited to, substantially increased costs to consumers or insufficient quantity or distribution of biodiesel or cellulosic ethanol.

§ 1650.6. Infrastructure reports

- (a) **CERTIFICATION.** - **At least six months prior to the effective dates of the mandated content requirements contained in sections 3(a)(1), (2), (3) and (4) and 4, the department and the Department of Transportation shall jointly make a certification as to whether there is sufficient transportation, distribution and other necessary infrastructure, including rail capability and terminal facilities, in this Commonwealth to meet the requirements of this act.**
- (b) **HEARING.** - **The department and the Department of Transportation shall conduct at least three public hearings across this Commonwealth for each report required under this act.**
- (c) **POSTING.** - **The infrastructure reports shall be submitted to the General Assembly and posted and maintained on each department's publicly accessible Internet website.**
- (d) **INSUFFICIENT INFRASTRUCTURE.** - **If any infrastructure report determines that there is insufficient infrastructure in place to meet any of the mandated volume standard requirements contained in section 3 or 4, that mandated content requirement shall be delayed at least six months or until the department and the Department of Transportation certify that sufficient infrastructure is in place through the issuance of a new infrastructure report, whichever is later.**

§ 1650.7. National Ambient Air Quality Standards impact study

- (a) **CONTRACTS.** - The Department of Environmental Protection shall contract with an independent third party certified in conducting ambient air quality studies to determine the impact of this act on the Commonwealth's ability to achieve and maintain the National Ambient Air Quality Standards.
- (b) **STUDY.** - The study required under subsection (a) shall be completed no later than December 31, 2009.
- (c) **SUBMISSION AND POSTING.** - The study required under subsection (a) shall be submitted to the General Assembly and posted and maintained on the Department of Environmental Protection's publicly accessible Internet website.
- (d) **FUNDING.** - The Department of Environmental Protection is authorized to utilize up to \$ 200,000 of funds contained in the Clean Air Fund to pay for the study required by this section.

IV. Biodiesel Production Summary

The following is not required in this report; however it is being included to provide a brief industry background. Currently, there are ten biodiesel production facilities located throughout the Commonwealth. The Pennsylvania biodiesel producers currently have a combined production capacity of 110 million¹ gallons on an annual basis. Pennsylvania producers refine biodiesel with multiple feedstocks including vegetable oil (*soy, canola*) which accounts for approximately 26% of total production, greases (*white: lard, yellow: used cooking oils*) approximately 24%, animal fats approximately 29% and beef tallow or solid animal fats accounting for approximately 21%.² Geographically, the production facilities have the ability for over-the-road transport to deliver B100 to pipeline terminals throughout the state for blending, and also have the ability to blend fuels at their facilities to serve more local markets. In the northwest area of Pennsylvania, appropriate rail infrastructure exists to transport fuels to terminals with rail capability and to easily and affordably deliver biodiesel to the southeast.³

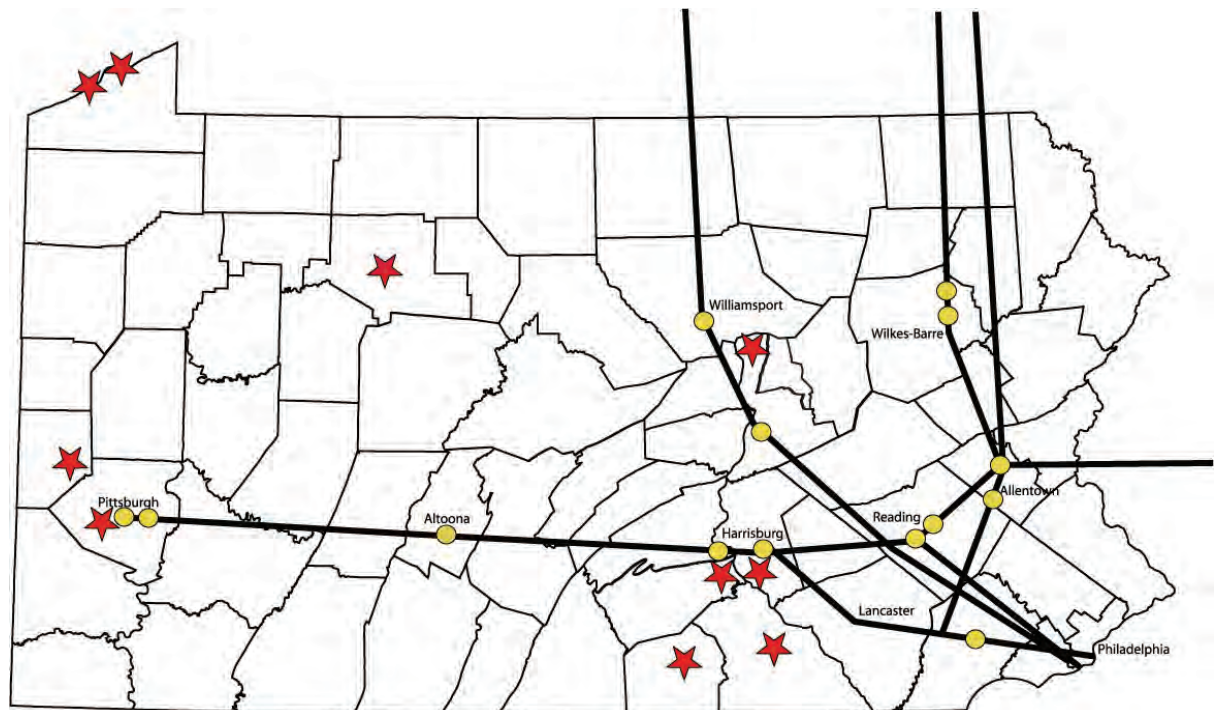


Figure 1 – Pennsylvania petroleum pipeline map showing biodiesel ready terminals (●) as of January 1, 2010 and biodiesel producers (★).

¹ Biodiesel production capacity compiled from annual reporting as required by Section 3 (c) of Act 78 collected from all biodiesel producers in Pennsylvania.

² Feedstocks used to produce biodiesel in Pennsylvania and associated percentages are sourced from monthly production reports supplied to the Department.

³ Pennsylvania Department of Transportation.

V. Sufficient Infrastructure Definition

The Department has explored many different ways to identify our criteria for a sufficient or insufficient infrastructure certification. We have received information from some petroleum industry representatives indicating that every entity who supplies fuel to or throughout Pennsylvania must have the appropriate equipment in place in order to have achieved sufficient infrastructure. We are aware that 100% of the entities who hold current market shares in the Pennsylvania fuel distribution network will not be 100% biodiesel-capable in the timeframe defined by the Act. Pennsylvania fuel suppliers are responsible for making independent, strategic decisions as they relate to their capabilities in response to recently and rapidly growing renewable fuel initiatives. Pennsylvania will not take into consideration market share exchanges or losses due to inabilities of current suppliers to direct investments towards renewable fuel delivery systems. With that being said, the Department has determined that the infrastructure certification will be based on present and proposed infrastructure implementation which will be in place in 2010, the raw output capacity, the sufficient geographic placement of those facilities and adequate transportation throughout Pennsylvania to satisfy demand and provide B2 to the ultimate consumer in this Commonwealth.

VI. Infrastructure Assessment



Pennsylvania Department of Agriculture Biofuels Infrastructure Assessment

COMPANY INFORMATION			PDA USE ONLY		
SECTION A	Company Name			Site Identification #	
	Contact Person	Phone Number	Email Address		
	Mailing Address			State Zip Code	
	City				

TERMINAL DATA					
SECTION B	Physical Address:	City:	State:	Zip:	
	Terminal presently has dedicated biodiesel (B100) storage capability		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
	Capacity of existing dedicated biodiesel (B100) storage tank				
	Terminal has existing biodiesel blending capability		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
	Which method of blending		<input type="checkbox"/> Injection	<input type="checkbox"/> Splash	<input type="checkbox"/> Other
	Anticipated date of dedicated biodiesel storage capability				
	Anticipated capacity of dedicated biodiesel storage tank				
	Anticipated date of biodiesel blending capability				
	Anticipated method of blending		<input type="checkbox"/> Injection	<input type="checkbox"/> Splash	<input type="checkbox"/> Other
	Terminal has rail access		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
	How many gallons of on-road diesel fuel were sold in 2008 <i>(if possible, estimate of sales for Pennsylvania consumption)</i>				
	How many lanes at facility				
	Number of lanes where biodiesel blends will be available as of 1/1/2010				
	Current daily diesel fuel output capability				
Anticipated daily diesel fuel output capability as of 1/1/2010					

TRADE SECRET / CONFIDENTIAL PROPRIETARY INFORMATION NOTICE	
SECTION C	Instructions:
	The Commonwealth may not assert on behalf of a third party an exception to the public release of information that contains trade secrets or confidential proprietary information unless accompanied by this form or a document containing similar information. It is the responsibility of the party submitting this form to ensure that all statements and assertions made below are legally defensible and accurate. The Commonwealth will not provide a submitting party any advice with regard to trade secret law.

SECTION C (CONT.)	The undersigned identifies the following information provided as trade secrets or confidential proprietary information:
	The undersigned provides the following explanation of why it believes the information identified above constitutes a trade secret or confidential proprietary information:
<p>Acknowledgment: The undersigned party hereby agrees that it has read and completed this form. The undersigned agrees to defend any action seeking release of the materials it believes to be trade secret or confidential, and indemnify and hold harmless the Commonwealth, its agents and employees, from any judgments awarded against the Commonwealth in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives so long as the Commonwealth has possession of the submitted material, and will apply to all costs unless and until the undersigned provides a written statement or similar notice to the Commonwealth stating that it no longer wishes to exempt the submitted material from public disclosure. The undersigned acknowledges that the Commonwealth is required to keep all records for at least as long as specified in its published records retention schedule. The undersigned acknowledges that the Commonwealth reserves the right to reject the undersigned's claim of trade secret/confidential proprietary information if the Commonwealth determines that the undersigned has not met the burden of establishing that the information constitutes a trade secret or is confidential. The undersigned also acknowledges that if only a certain part of the submitted material is found to constitute a trade secret or is confidential, the remainder of the submitted material will become public; only the protected information will be removed and remain nonpublic.</p>	

SECTION D	CERTIFICATION	
	I verify that the statements made in this document are true and correct subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.	
	Preparer Printed Name	Phone No. () - Ext.
	Preparer Title	
	Preparer Signature	Date: (mm/dd/yyyy)



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
HARRISBURG, PENNSYLVANIA 17101-1900

OFFICE OF
SECRETARY OF TRANSPORTATION

August 27, 2009

The Honorable Dennis Wolff, Secretary
Department of Agriculture
2301 N. Cameron Street
Harrisburg, PA 17110

Dear Secretary Wolff:

As required by Act 78 of 2008, I certify that the Commonwealth's transportation network is sufficient and prepared to handle the transport of biodiesel within the state. As you are aware, the state owned roadway network includes almost 40,000 miles and over 25,000 bridges. These roadways and bridges are governed by the motor vehicle code and monitored through our permitting process. Compliance with both the motor vehicle code and permitting process will ensure that the Commonwealth's State highway and bridge infrastructure can support the transportation demand of biodiesel throughout the State.

In addition through the vast railroad infrastructure of 67 railroad companies (including 4 Class I railroads) and over 5,000 miles of rail, the Commonwealth is well prepared to accommodate the rail transportation demand of biodiesel throughout the state. In the instances where additional rail infrastructure or enhances are required, the Commonwealth offers two grant programs to finance these rail freight improvements. Information regarding the Rail Freight Assistance Program and the Rail Transportation Assistance Program may be located on the PennDOT website www.dot.state.pa.us, Aviation and Rail Freight Programs.

Please feel free to contact Danielle Spila, at dspila@state.pa.us if you need further information on this matter.

Sincerely,

A handwritten signature in black ink that reads "Allen D. Biehler".

Allen D. Biehler, P.E.
Secretary of Transportation

VIII. Pennsylvania Fuel Distribution Summary

There are currently 59⁴ fuel terminals in Pennsylvania; 44 of which carry petroleum diesel fuel. 43 of the 59 fuel terminals in Pennsylvania have responded to our Infrastructure Assessment (See Section VI). Three terminals currently have biodiesel injection blending capabilities⁵. Fourteen facilities will have biodiesel storage and blending capabilities by January 1, 2010 (*Figure 2*).⁶ Assuming, no other facilities are prepared to distribute biodiesel blends, these fourteen facilities have the capacity to provide 7,243,930 gallons of B2 biodiesel blended product on a daily basis. The annual output capability of these fourteen facilities is in excess of 2,644,034,450 gallons annually. Annual Pennsylvania sales of diesel fuel, according to the Pennsylvania Department of Revenue, are less than 1,600,000,000⁷ gallons. Therefore, by January 1, 2010 there will be a surplus in output capacity of 1,136,310,200 gallons annually. Additionally, six more facilities will have biodiesel blending and storage capabilities by July 1, 2010 (*Figure 3*), increasing B2 biodiesel output capacity by 1,241,438,000 gallons annually.

⁴ Information supplied by the Pennsylvania Department of Revenue Bureau of Motor Fuel Taxes terminal listing.

⁵ Buckeye Energy Services (Macungie), Petroleum Products Corp. (Sinking Springs & Middletown).

⁶ Petroleum Products Corp. (Allentown, Northumberland, Duncansville, Mechanicsburg, Pittston, Sinking Springs, Coraopolis, Middletown), Buckeye Energy Services (Macungie, Reading, South Williamsport), Sunoco (Exton), Kinder Morgan (Indianola), Gulf (Pittston).

⁷ Diesel gallons reported to the PA Department of Revenue for FY 07-08 is 1,507,724,250. 148,584,254 gallons are included in this total which represents sales as tax exempt by U.S. Government, Political Sub Division or for other exempt use. Of the 148,584,254 gallons reported as tax exempt, there is no way to determine the percentage of off-road diesel fuel, so the entire figure has been included.

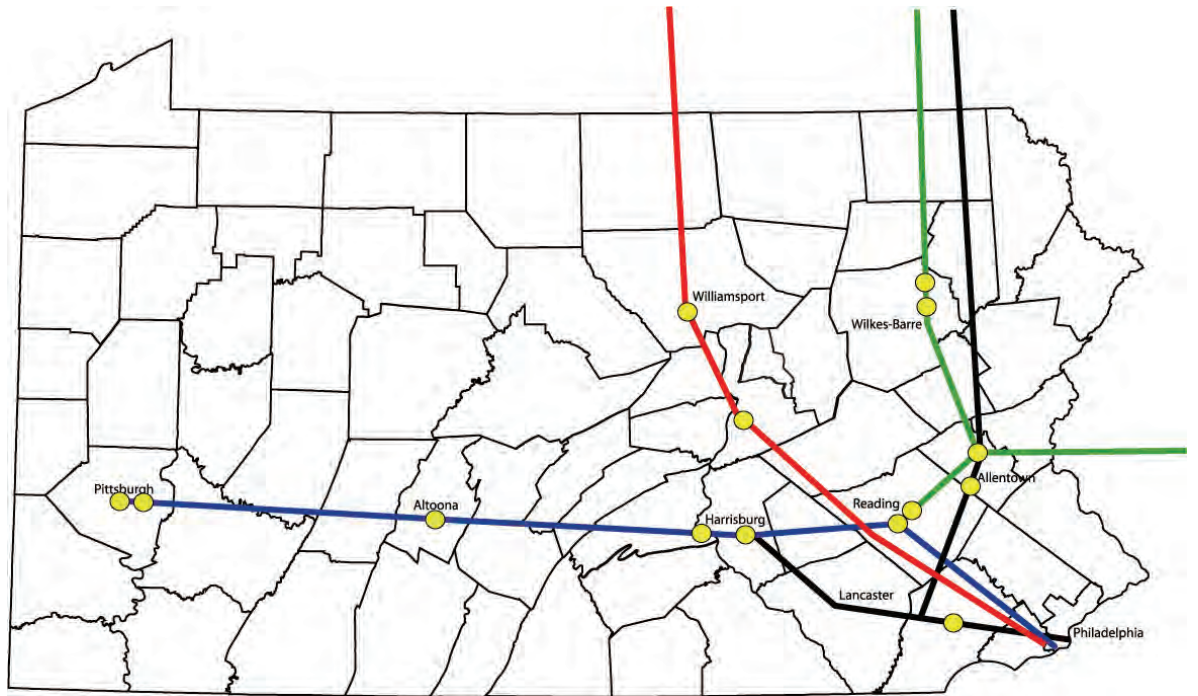


Figure 2 – Pennsylvania petroleum pipeline map showing biodiesel terminals as of January 1, 2010.

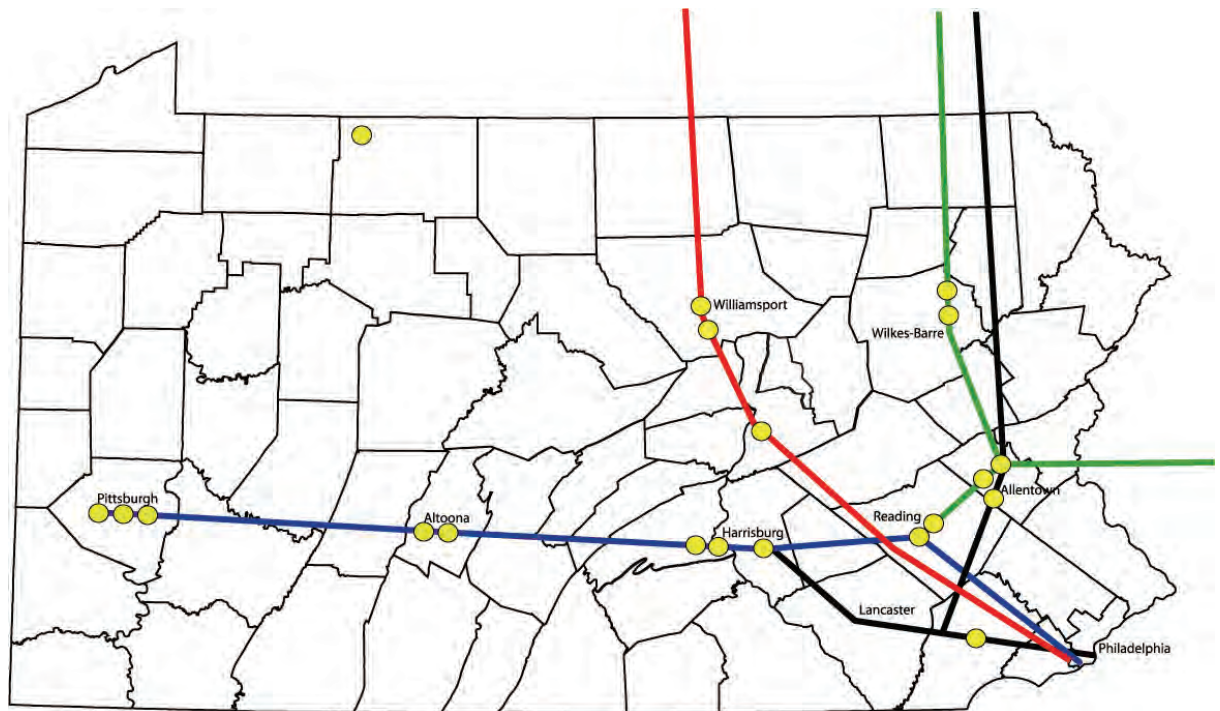


Figure 3 – Pennsylvania petroleum pipeline map showing biodiesel ready terminals as of July 2010.

- Laurel Pipeline
- Buckeye Pipeline
- Sun Pipeline
- ExxonMobil Pipeline

IX. Infrastructure Certification

Accordingly, the Department certifies that sufficient transportation, distribution and other necessary infrastructure, including rail capability and terminal facilities, does exist in this Commonwealth to meet the requirements of Section 3(a)(1) of Act 78 of 2008.

As a result of the infrastructure assessment performed by the Department, the mandated content requirements of Section 3(a)(1) shall be enforced by the Department effective May 1, 2010. This date is at least one year after the required in-state production volume of biodiesel has been reached in accordance with Section 3(a)(1) and at least six months after this certification in accordance with Section 6(a).