

Western Australia

**Environmental Protection (Petrol)
Regulations 1999**

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Environmental Protection (Petrol) Regulations 1999

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Environmental Protection (Petrol) Regulations 1999

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Environmental Protection (Petrol) Regulations 1999* ¹.

[Regulation 1 amended in Gazette 9 Oct 2012 p. 4748.]

2. Commencement

These regulations come into operation on 1 January 2000.

3. Interpretation

(1) In these regulations —

ASTM followed by a designation refers to the standard test method of that designation, as amended from time to time, published by the standards development organisation known as ASTM International;

diesel means any petroleum or shale product that —

- (a) is used or capable of being used to power an internal combustion engine with compression ignition; and
- (b) has been entered for home consumption;

entered for home consumption, in relation to fuel, means entered for home consumption or delivered for or into home

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consumption for the purposes of the *Customs Act 1901* or *Excise Act 1901* of the Commonwealth;

fuel means —

- (a) petrol; or
- (b) any substance that is used as a substitute for petrol; or
- (c) any substance that is supplied or represented as petrol or as a substance that is used as a substitute for petrol;

fuel distributor has the meaning given by subregulation (5);

fuel supplier has the meaning given by subregulation (4);

fuel warranty, in relation to any fuel, means a warranty given under regulation 17(1);

motorsport organisation includes the following organisations —

- (a) Confederation of Australian Motor Sport (CAMS);
- (b) National Association of Speedway Racing;
- (c) Australian National Drag Racing Association; and
- (d) Motorcycling Australia;

Perth area means the area referred to in Schedule 1;

petrol means any petroleum or shale product, or petrol blend, that —

- (a) is used or capable of being used to power an internal combustion engine with positive or spark ignition; and
- (b) has been entered for home consumption;

petrol blend means a product that consists of a petroleum or shale product mixed with ethanol;

prescribed blended petrol means petrol that contains at least 4% of ethanol by volume but no more than 10% of ethanol by volume;

summer means a period that begins at the start of 15 October in any year and ends at the end of 15 April in the following year;

supply includes deliver, give or sell;

vehicle means any thing used or capable of being used to transport people or things by land or water.

- (2) For the purposes of these regulations a person supplies fuel at a place if the person supplies fuel to another person who takes delivery of it at that place.
- (3) For the purposes of these regulations fuel is used at a place if, in the case of fuel used in a vehicle, the fuel is put in the vehicle's tank at the place, and it does not matter that all of that fuel is not used at the place.
- (4) For the purposes of these regulations a person is a fuel supplier if the person —
 - (a) enters fuel for home consumption; and
 - (b) either —
 - (i) supplies the fuel to another person; or
 - (ii) uses the fuel for the person's own purposes.
- (5) For the purposes of these regulations a person is a fuel distributor if the person takes delivery of fuel from a fuel supplier or from another fuel distributor and supplies the fuel to another person for that person's use, and it does not matter that the fuel distributor also uses some of the fuel for the fuel distributor's own purposes.

[Regulation 3 amended in Gazette 19 December 2000 p.7285; 9 Oct 2012 p. 4749.]

3A. Regulations do not apply to some fuel

These regulations do not apply to —

- (a) petrol that is for use in an aircraft or in a motor vehicle used solely for motor racing at a racing event or facility approved or recognised by a motorsport organisation;
- (b) diesel;
- (c) liquefied petroleum gas;
- (d) liquefied natural gas;

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- (e) compressed natural gas; or
- (f) alcohols, including ethanol.

[Regulation 3A inserted in Gazette 19 December 2000 p. 7286; amended in Gazette 9 Oct 2012 p. 4749.]

3B. Exemption where state of emergency has been declared

- (1) A fuel supplier or a fuel distributor does not commit an offence under regulation 9(1) if the fuel supplier or fuel distributor supplies or uses petrol that does not conform with the specification in that regulation at a place in the State during a period when an order is in force under the *Fuel, Energy and Power Resources Act 1972* section 43 declaring that a state of emergency exists in —
 - (a) the whole State; or
 - (b) a part of the State that includes the place at which the petrol is supplied or used.
- (2) A fuel supplier does not commit an offence under any of the following (the ***relevant provision***) —
 - (a) regulation 10(2);
 - (b) regulation 11(2) or (3),

if the fuel supplier supplies or uses petrol that does not conform with the specification set out in the relevant provision during a period when an order is in force under the *Fuel, Energy and Power Resources Act 1972* section 43 declaring that a state of emergency exists in the Perth area, in any part of the Perth area or in the whole State.

[Regulation 3B inserted in Gazette 9 Oct 2012 p. 4750.]

[Part 2 (r. 4-6) deleted in Gazette 9 Oct 2012 p. 4750.]

Part 3 — Petrol

[7, 8. Deleted in Gazette 9 Oct 2012 p. 4750.]

9. Methyl tertiary butyl ether in petrol

- (1) A fuel supplier or a fuel distributor who supplies or uses petrol at a place in the State commits an offence if the methyl tertiary-butyl ether in the petrol is more than 0.10% volume by volume.
- (2) It is a defence to an alleged offence under subregulation (1) against a fuel distributor to prove that all petrol in the possession of the distributor at the time of the alleged offence was the subject of a fuel warranty given by the person who supplied the petrol to the distributor.

[Regulation 9 amended in Gazette 9 Oct 2012 p. 4750.]

10. Reid Vapour Pressure of petrol supplied in Perth area during summer: until 15 April 2016

- (1) This regulation applies until the end of 15 April 2016.
- (2) A fuel supplier commits an offence if —
 - (a) during a period of 30 consecutive days that is entirely during summer, the fuel supplier supplies or uses petrol at a place in the Perth area; and
 - (b) the average Reid Vapour Pressure of the petrol over that 30-day period, calculated under subregulation (3), is —
 - (i) for petrol (other than prescribed blended petrol) — more than 67 kPa; or
 - (ii) for prescribed blended petrol — more than 74 kPa.
- (3) For the purposes of subregulation (2)(b), the average Reid Vapour Pressure of petrol supplied or used by a fuel supplier over a period of 30 consecutive days is the average of the Reid Vapour Pressure (ascertained in accordance with regulation 19)

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of at least 4 samples, taken on separate days at regular intervals in that 30 days, of the petrol supplied or used by the fuel supplier in that time.

[Regulation 10 inserted in Gazette 9 Oct 2012 p. 4751.]

11. Reid Vapour Pressure of petrol supplied in Perth area during summer: from 15 October 2016

- (1) This regulation applies on and after 15 October 2016.
- (2) A fuel supplier commits an offence if —
 - (a) the fuel supplier supplies or uses petrol at a place in the Perth area during summer; and
 - (b) the Reid Vapour Pressure of the petrol supplied or used is —
 - (i) for petrol (other than prescribed blended petrol) — more than 64 kPa; or
 - (ii) for prescribed blended petrol — more than 71 kPa.
- (3) A fuel supplier commits an offence if —
 - (a) the fuel supplier supplies or uses petrol (other than prescribed blended petrol) at a place in the Perth area during a month in summer; and
 - (b) the monthly volumetric average Reid Vapour Pressure of the petrol in the month during which the petrol is supplied or used, calculated under subregulation (4), is more than 62 kPa.
- (4) For the purposes of subregulation (3)(b), the monthly volumetric average Reid Vapour Pressure of petrol in a particular month is to be calculated as follows —
 - (a) a sample is to be taken from each batch of the petrol supplied or used during the month by the fuel supplier;

- (b) the Reid Vapour Pressure of each sample taken is to be ascertained using the same standard test method prescribed by regulation 19;
 - (c) the Reid Vapour Pressure of each sample taken is to be multiplied by a fraction that is equal to the volume of petrol in the batch from which the sample was taken divided by the total volume of petrol supplied or used in the relevant month;
 - (d) the figures calculated under paragraph (c) for each sample of petrol are to be added together.
- (5) For the purposes of subregulations (3) and (4) —
- (a) if petrol is supplied or used during the period that begins at the start of 15 October and ends at the end of 31 October in any year — a reference in those subregulations to a month is taken to be a reference to that period; and
 - (b) if petrol is supplied or used during the period that begins at the start of 1 April and ends at the end of 15 April in any year — a reference in those subregulations to a month is taken to be a reference to that period.

[Regulation 11 inserted in Gazette 9 Oct 2012 p. 4751-2.]

[12, 13. Deleted in Gazette 9 Oct 2012 p. 4751.]

Part 4 — Record keeping and testing requirements

[Heading inserted in Gazette 9 Oct 2012 p. 4752.]

14. General

- (1) If this Part requires a person to keep a record of an analysis the person must keep a record of the test used to conduct the analysis and the result of the analysis.
- (2) If this Part requires a person to keep a record the person must make the record and retain it for 24 months after the event to which the record relates.

[15. Deleted in Gazette 9 Oct 2012 p. 4752.]

16. Duties of fuel suppliers as to petrol products

- (1) In this regulation —
petrol product means any product (for example, unleaded petrol or premium unleaded petrol) that consists of petrol.
- (2) A fuel supplier commits an offence if the fuel supplier does not, for each petrol product supplied or used by the fuel supplier at a place in the State —
 - (a) ensure that analyses and calculations are conducted in relation to the petrol product in accordance with this regulation; and
 - (b) keep a record of the results of those analyses and calculations in accordance with regulation 14.
- (3) An analysis of each petrol product must be conducted in respect of each batch of the petrol product entered for home consumption.
- (4) An analysis under subregulation (3) must —
 - (a) determine the amount of methyl tertiary-butyl ether in the petrol product in accordance with the standard test method prescribed by regulation 18; and

- (b) if the petrol product is supplied or used in the Perth area during summer — determine the Reid Vapour Pressure of the petrol product in accordance with a standard test method prescribed by regulation 19.
- (5) If, before the end of 15 April 2016, a fuel supplier supplies or uses a petrol product in the Perth area during summer, the average Reid Vapour Pressure of the petrol product for each consecutive period of 30 days during summer must be calculated in accordance with regulation 10(3).
- (6) If, on or after 15 October 2016, a fuel supplier supplies or uses a petrol product (other than a petrol product consisting of prescribed blended petrol) in the Perth area during summer, the monthly volumetric average Reid Vapour Pressure of the petrol product for each month in summer must be calculated in accordance with regulation 11(4).

[Regulation 16 inserted in Gazette 9 Oct 2012 p. 4752-3.]

Part 5 — Miscellaneous

17. Fuel warranties

- (1) A person who supplies fuel to another person must, if the other person is —
 - (a) a fuel distributor; or
 - (b) a person who supplies fuel to a fuel distributor,give that other person a written warranty that the fuel has been supplied in accordance with these regulations.
- (2) A person who supplies fuel is not required to give such a warranty in respect of regulation 9(1), 10(2) or 11(2) or (3) if, by reason of regulation 3B, the person was not required to comply with those regulations when supplying the fuel.
- (3) A person who does not comply with subregulation (1) commits an offence.
- (4) A person who gives a warranty that fuel has been supplied in accordance with these regulations when in fact the fuel has not been so supplied commits an offence.

[Regulation 17 inserted in Gazette 9 Oct 2012 p. 4753-4.]

18. Measuring methyl tertiary-butyl ether

For the purposes of these regulations the amount of methyl tertiary-butyl ether in any petrol is the amount determined in accordance with ASTM D4815.

[Regulation 18 inserted in Gazette 9 Oct 2012 p. 4754.]

19. Measuring Reid Vapour Pressure

For the purposes of these regulations the Reid Vapour Pressure of petrol is to be determined in accordance with any of the following standard test methods —

- (a) ASTM D323;

(b) ASTM D5190;

(c) ASTM D5191.

[Regulation 19 inserted in Gazette 9 Oct 2012 p. 4754.]

20. Defence to certain charges

It is a defence to an alleged offence under these regulations involving the use of fuel in a vehicle at a place to prove that the fuel was put into the vehicle at a place at which it would not have been an offence under these regulations to use the fuel.

21. Penalty for offences

A person who commits an offence under these regulations is liable to a fine of \$5 000.

[22. Deleted in Gazette 9 Oct 2012 p. 4754.]

Schedule 1 Perth area

Schedule 1 — Perth area

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The area covered by these local government districts (under the *Local Government Act 1995*) —

| | | |
|----------------|------------------|-----------------------|
| Armadale | Gingin | Rockingham |
| Bassendean | Gosnells | Serpentine-Jarrahdale |
| Bayswater | Joondalup | South Perth |
| Belmont | Kalamunda | Stirling |
| Beverley | Kwinana | Subiaco |
| Boddington | Mandurah | Swan |
| Cambridge | Melville | Toodyay |
| Canning | Mosman Park | Victoria Park |
| Chittering | Mundaring | Vincent |
| Claremont | Murray | Wandering |
| Cockburn | Nedlands | Wanneroo |
| Cottesloe | Northam | Warooka |
| East Fremantle | Peppermint Grove | York |
| Fremantle | Perth | |

[Schedule 1 amended in Gazette 9 Oct 2012 p. 4754.]

[Schedule 2 and 3 deleted in Gazette 9 Oct 2012 p. 4754.]

Notes

- ¹ This is a compilation of the *Environmental Protection (Petrol) Regulations 1999* and includes the amendments referred to in the following Table.

Compilation table

| Citation | Gazettal | Commencement |
|---|---------------------------|--|
| <i>Environmental Protection (Diesel and Petrol) Regulations 1999</i> ² | 17 Dec 1999 p. 6307-25 | 1 Jan 2000 (see regulation 2) |
| <i>Environmental Protection (Diesel and Petrol) Amendment Regulations 2000</i> | 19 Dec 2000 p. 7285-8 | 19 Dec 2000 |
| <i>Environmental Protection (Diesel and Petrol) Amendment Regulations 2012</i> | 9 Oct 2012 p. 4748-54 | r. 1 and 2: 9 Oct 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Oct 2012 (see r. 2(b)) |

- ² Now known as the *Environmental Protection (Petrol) Regulations 1999*; citation changed (see note under r. 1).