

Western Australia

**Environmental Protection (Diesel and Petrol)
Regulations 1999**

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Environmental Protection (Diesel and Petrol) Regulations 1999

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Environmental Protection (Diesel and Petrol) Regulations 1999

Part 1 — Preliminary

1. Citation

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

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 test of that designation in the *2000 Annual Book of ASTM Standards* published by the American Society for Testing and Materials, West Conshohocken, Pennsylvania, USA;

AVSR additive means a substance that may be added to petrol in order to reduce valve seat recession in internal combustion engines using the petrol;

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;

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entered for home consumption, in relation to fuel, means entered for home consumption or delivered for or into home consumption for the purposes of the *Customs Act 1901* or *Excise Act 1901* of the Commonwealth;

fuel means petrol or diesel;

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);

IP followed by a designation refers to the test of that designation in the *Standard Methods for Analysis and Testing of Petroleum and Related Products and British Standard 2000 Parts 2000* published by The Institute of Petroleum, London;

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 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;

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.]

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 that is for use in a boat while it is at sea;
- (c) liquefied petroleum gas;
- (d) liquefied natural gas;
- (e) compressed natural gas; or
- (f) alcohols, including ethanol.

[Regulation 3A inserted in Gazette 19 December 2000 p.7286.]

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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 if the fuel supplier or fuel distributor supplies or uses petrol that does not conform with the specifications in Table B of Schedule 2 during a period when an order made by the Governor under section 43 of the *Fuel, Energy and Power Resources Act 1972* is in force.
- (2) A fuel supplier does not commit an offence under regulation 10(2) if the fuel supplier supplies or uses petrol that does not conform with the specifications set out in regulation 10(2) and, at any time during the period when the average Reid Vapour Pressure of the petrol is calculated, an order made by the Governor under section 43 of the *Fuel, Energy and Power Resources Act 1972* declaring that a state of emergency exists in the Perth area, in any part of the Perth area or in the whole State is in force.

[Regulation 3B inserted in Gazette 19 December 2000 p.7286.]

Part 2 — Diesel

4. Diesel-500 sulfur to be supplied and used in the Perth area

- (1) A fuel supplier who supplies or uses diesel at a place in the Perth area commits an offence if the diesel contains more than 500 mg of sulphur per kilogram of diesel.
- (2) It is a defence to an alleged offence under subregulation (1) alleged to have been committed before 31 January 2000 to prove that between the beginning of 1 January 2000 and the time of the alleged offence the total amount of diesel that the fuel supplier had supplied and used was less than 3 times the fuel supplier's storage capacity for diesel.
- (3) On and after 31 January 2000 a fuel distributor who supplies or uses diesel at a place in the Perth area commits an offence if the diesel contains more than 500 mg of sulphur per kilogram of diesel.
- (4) It is a defence to an alleged offence under subregulation (3) to prove —
 - (a) that all diesel in the possession of the fuel distributor at the time of the alleged offence was the subject of a fuel warranty given by the person who supplied the diesel to the distributor; or
 - (b) that between the beginning of 31 January 2000 and the time of the alleged offence the total amount of diesel that the fuel distributor had supplied and used was less than 3 times the distributor's storage capacity for diesel.

5. Diesel-500 sulfur to be supplied and used south of 25°S

- (1) A fuel supplier who supplies or uses diesel at a place that is south of latitude 25°S commits an offence if the diesel contains more than 500 mg of sulphur per kilogram of diesel.
- (2) It is a defence to an alleged offence under subregulation (1) alleged to have been committed before 31 March 2000 to prove

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that between the beginning of 1 January 2000 and the time of the alleged offence the total amount of diesel that the fuel supplier had supplied and used was less than 3 times the fuel supplier's storage capacity for diesel.

- (3) On and after 30 April 2000 a fuel distributor who supplies or uses diesel at a place that is south of latitude 25°S commits an offence if the diesel contains more than 500 mg of sulphur per kilogram of diesel.
- (4) It is a defence to an alleged offence under subregulation (3) to prove —
 - (a) that all diesel in the possession of the fuel distributor at the time of the alleged offence was the subject of a fuel warranty given by the person who supplied the diesel to the distributor; or
 - (b) that between the beginning of 30 April 2000 and the time of the alleged offence the total amount of the diesel that the fuel distributor had supplied and used was less than 3 times the distributor's storage capacity for diesel.

6. Diesel-500 sulfur to be supplied and used in the whole State

- (1) On and after 1 January 2001 a fuel supplier who supplies or uses diesel at a place in the State commits an offence if the diesel contains more than 500 mg of sulphur per kilogram of diesel.
- (2) On and after 1 March 2001 a fuel distributor who supplies or uses diesel at a place in the State commits an offence if the diesel contains more than 500 mg of sulphur per kilogram of diesel.
- (3) It is a defence to an alleged offence under subregulation (2) to prove that all diesel in the possession of the fuel distributor at the time of the alleged offence was the subject of a fuel warranty given by the person who supplied the diesel to the distributor.

Part 3 — Petrol

7. Petrol supplied in the Perth area in 2000

- (1) A fuel supplier who supplies or uses petrol at a place in the Perth area in the year 2000 commits an offence if the petrol does not conform with the specifications in Table A of Schedule 2.
- (2) It is a defence to an alleged offence under subregulation (1) alleged to have been committed before 15 January 2000 to prove that between the beginning of 1 January 2000 and the time of the alleged offence the amount of petrol that the fuel supplier had supplied and used was less than 3 times the fuel supplier's storage capacity for petrol.
- (3) A fuel distributor who supplies or uses petrol at a place in the Perth area between 15 January and 31 December 2000 (both dates inclusive) commits an offence if the petrol does not conform with the specifications in Table A of Schedule 2.
- (4) It is a defence to an alleged offence under subregulation (3) to prove —
 - (a) that all petrol in the possession of the fuel 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; or
 - (b) that between the beginning of 15 January 2000 and the time of the alleged offence the total amount of petrol that the fuel distributor had supplied and used was less than 3 times the distributor's storage capacity for petrol.

8. Petrol supplied outside the Perth area in 2000

- (1) A fuel supplier who supplies or uses petrol at a place outside the Perth area in the year 2000 commits an offence if the petrol does not conform with the specifications in Table A of Schedule 2.
- (2) It is a defence to an alleged offence under subregulation (1) alleged to have been committed before 1 May 2000 to prove

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that between the beginning of 1 January 2000 and the time of the alleged offence the total amount of petrol that the fuel supplier had supplied and used was less than 3 times the fuel supplier's storage capacity for petrol.

- (3) A fuel distributor who supplies or uses petrol at a place outside the Perth area between 1 May and 31 December 2000 (both dates inclusive) commits an offence if the petrol does not conform with the specifications in Table A of Schedule 2.
- (4) It is a defence to an alleged offence under subregulation (3) to prove —
 - (a) that all petrol in the possession of the fuel 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; or
 - (b) that between the beginning of 1 May 2000 and the time of the alleged offence the total amount of petrol that the fuel distributor had supplied and used was less than 3 times the distributor's storage capacity for petrol.

9. Petrol supplied in 2001

- (1) On and after 1 January 2001 a fuel supplier or a fuel distributor who supplies or uses petrol at a place in the State commits an offence if the petrol does not conform with the specifications in Table B of Schedule 2.
- (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.

10. Petrol supplied in the Perth area in summer

- (1) If between 15 January and 15 April 2000 (both dates inclusive) a fuel supplier supplies or uses petrol at a place in the Perth area and the average Reid Vapour Pressure of the petrol over any

consecutive 30 days in that period, calculated under subregulation (3), is more than 72 kPa, the fuel supplier commits an offence.

- (2) If between 15 October in each year and the following 15 April (both dates inclusive) a fuel supplier supplies or uses petrol at a place in the Perth area and the average Reid Vapour Pressure of the petrol over any consecutive 30 days in that period, calculated under subregulation (3), is more than 67 kPa, the fuel supplier commits an offence.
- (3) The average Reid Vapour Pressure of petrol supplied or used by a fuel supplier over any consecutive 30 days is the average Reid Vapour Pressure 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.

11. Unleaded petrol

- (1) A fuel supplier who, at a place in the State, supplies as unleaded petrol any petrol that contains more than 1.3 mg of phosphorus per litre commits an offence.
- (2) A fuel distributor who, at a place in the State, supplies as unleaded petrol any petrol that contains more than 1.3 mg of phosphorus per litre commits an offence.
- (3) It is a defence to an alleged offence under subregulation (2) to prove that all petrol in the possession of the fuel 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.

12. Petrol to replace leaded petrol (“lead replacement petrol”)

- (1) In this regulation —
lead replacement petrol means petrol that is supplied as a substitute for petrol containing added lead and that complies with the requirements in subregulation (2).

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- (2) The requirements for lead replacement petrol are —
 - (a) that it contains an AVSR additive;
 - (b) that the petrol does not contain more than 1.3 mg of phosphorus per litre, unless the AVSR additive has increased the level of phosphorus in the petrol; and
 - (c) if the AVSR additive —
 - (i) has increased the level of phosphorus in the petrol, that the petrol contains at least 6 mg and not more than 36 mg of phosphorus per litre; or
 - (ii) has added potassium to the petrol, that the petrol contains at least 6 mg and not more than 15 mg of potassium per litre.
- (3) A fuel supplier or fuel distributor who, at a place in the State, supplies as lead replacement petrol any petrol that does not comply with the requirements in subregulation (2) commits an offence.
- (4) It is a defence to an alleged offence under subregulation (3) against a fuel distributor to prove that all petrol in the possession of the distributor at the time of the offence was the subject of a fuel warranty given by the person who supplied the petrol to the distributor.
- (5) A fuel distributor who dispenses lead replacement petrol through a petrol pump nozzle that is of a diameter designed to dispense unleaded petrol to motor vehicles commits an offence.

*[Regulation 12 amended in Gazette 19 December 2000
p7286-7.*

13. Anti valve seat recession (AVSR) additives

- (1) A person who adds an AVSR additive to petrol commits an offence if the AVSR additive has not been approved in writing by the Chief Executive Officer.

- (2) A person who sells as an AVSR additive a substance that has not been approved in writing by the Chief Executive Officer commits an offence.
- (3) A fuel supplier or fuel distributor who adds an AVSR additive to petrol other than in accordance with the instructions of the manufacturer of the AVSR commits an offence.

Part 4 — Record keeping requirements

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. Duties of fuel suppliers as to diesel

- (1) A fuel supplier who does not, in accordance with regulation 14, keep a record of the analyses, conducted in accordance with this regulation, of each kind of diesel supplied by the supplier at a place in the State commits an offence.
- (2) An analysis of each kind of diesel —
 - (a) must be conducted in respect of each batch of the diesel entered for home consumption; and
 - (b) must determine the amount of sulfur in the diesel in accordance with the tests prescribed by regulation 18.

16. Duties of fuel suppliers as to petrol

- (1) In this regulation —
petrol product means unleaded petrol, premium unleaded petrol, lead replacement petrol and any other product containing petrol.
- (2) A fuel supplier who does not, in accordance with regulation 14, keep a record of the results of the analyses, conducted in accordance with this regulation, of each petrol product supplied by the supplier at a place in the State commits an offence.
- (3) An analysis of each petrol product —
 - (a) must be conducted in respect of each batch of the product entered for home consumption;

- (b) must determine the amount of each substance mentioned in Schedule 2 in the product in accordance with the tests prescribed by regulation 18; and
 - (c) must, between the dates referred to in regulation 10, determine the Reid Vapour Pressure of each product in accordance with the tests prescribed by regulation 19.
- (4) A fuel supplier who adds an AVSR additive to petrol that is subsequently supplied at a place in the State and who does not keep a record of —
 - (a) the technical description of the AVSR additive; and
 - (b) the ratio of the volume of AVSR additive to the volume of petrol,commits an offence.

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 or 10(2) if, by reason of regulation 3B, the person was not required to comply with those regulations when supplying the fuel.
- (2) A person who does not comply with subregulation (1) commits an offence.
- (3) 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 amended in Gazette 19 December 2000 p.7287.]

18. Measuring substances in fuel

For the purposes of these regulations the amount of a substance in any fuel is the amount determined in accordance with the test or tests specified opposite that substance in Schedule 3.

19. Measuring Reid Vapour Pressure (RVP)

For the purposes of these regulations the Reid Vapour Pressure of petrol is that determined in accordance with these tests —

ASTM D323-99

ASTM D5190-96

ASTM D5191-99

[Regulation 19 amended in Gazette 19 Dec 2000 p. 7287.]

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. *Environmental Protection Regulations 1987 Part 8 repealed*

Part 8 of the *Environmental Protection Regulations 1987* is repealed.

Schedule 1 Perth area

Schedule 1 — Perth area

[r. 3]

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

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

Schedule 2 — Petrol specifications

[rr. 7, 8, 9]

Table A — Specifications for supplies in 2000

Substance	Maximum
Hydrocarbons:	
aromatics	48.0% v/v
benzene	2.0% v/v
Oxygenates:	
methyl tertiary-butyl ether (MTBE)	0.10% v/v
Lead	13 mg/L

Table B — Specifications for supplies in 2001

Substance	Maximum
Hydrocarbons:	
aromatics	42.0% v/v
benzene	1.0% v/v
olefins	18.0% v/v
Oxygenates:	
methyl tertiary-butyl ether (MTBE)	0.10% v/v
Lead	5 mg/L
Sulfur	150 mg/kg

Schedule 3 Tests for substances

Schedule 3 — Tests for substances

[r. 18]

Substance	Tests
Aromatics	ASTM D1319-98 ASTM D5134-98 ASTM D5443-93 ASTM D5580-95
Benzene	ASTM D3606-99 ASTM D4420-94 ASTM D5845-95 ASTM D5580-95
Lead	ASTM D3237-97 ASTM D3341-95 ASTM D3348-98 ASTM D5059-98 IP 352/84-2000 IP 224/68-96
Methyl tertiary-butyl ether (MTBE)	ASTM D4815-94
Olefins	ASTM D1319-98 ASTM D5443-98 ASTM D6293-98
Phosphorus	ASTM D3231-99
Potassium	ASTM D5185-97 IP 456/2000
Sulphur	ASTM D2622-98 ASTM D3120-96 ASTM D4045-99 ASTM D4294-98 ASTM D5453-93 IP 243-94 IP 336-95

[Schedule3 amended in Gazette 19 December 2000 pp.7287-8.]

Notes

- ¹ This is a compilation of the *Environmental Protection (Diesel and 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>	17 Dec 1999 pp.6307-25	1 Jan 2000 (see regulation 2)
<i>Environmental Protection (Diesel and Petrol) Amendment Regulations 2000</i>	19 Dec 2000 pp7285-8	19 Dec 2000