

**EV301\***

Environmental Protection Act 1986

## **Environmental Protection (Diesel and Petrol) Amendment Regulations 2012**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Environmental Protection (Diesel and Petrol) Amendment Regulations 2012*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

**3. Regulations amended**

These regulations amend the *Environmental Protection (Diesel and Petrol) Regulations 1999*.

**4. Regulation 1 amended**

In regulation 1 delete “*(Diesel and Petrol)*” and insert:

*(Petrol)*

**5. Regulation 3 amended**

- (1) In regulation 3(1) delete the definitions of:

*ASTM*

*AVSR additive*

*fuel*

*IP*

- (2) In regulation 3(1) insert in alphabetical order:

*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;

*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;

*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;

- (3) In regulation 3(1) in the definition of *petrol* delete “product” and insert:

product, or petrol blend,

**6. Regulation 3A amended**

Delete regulation 3A(b) and insert:

- (b) diesel;

**7. Regulation 3B replaced**

Delete regulation 3B and insert:

**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.

**8. Part 2 deleted**

Delete Part 2.

**9. Regulations 7 and 8 deleted**

Delete regulations 7 and 8.

**10. Regulation 9 amended**

Delete regulation 9(1) and insert:

- (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.

Note: The heading to amended regulation 9 is to read:

**Methyl tertiary-butyl ether in petrol**

**11. Regulations 10 to 13 replaced**

Delete regulations 10 to 13 and insert:

**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) 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. 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.

**12. Part 4 heading replaced**

Delete the heading to Part 4 and insert:

**Part 4 — Record keeping and testing requirements**

**13. Regulations 15 and 16 replaced**

Delete regulations 15 and 16 and insert:

**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).

**14. Regulations 17 to 19 replaced**

Delete regulations 17 to 19 and insert:

**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.

**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.

**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.

**15. Regulation 22 deleted**

Delete regulation 22.

**16. Schedule 1 amended**

- (1) In Schedule 1 in the Table delete “Northam (shire)” and insert:

Northam

- (2) In Schedule 1 in the Table delete “Northam (town)”.

**17. Schedules 2 and 3 deleted**

Delete Schedules 2 and 3.

By Command of the Governor,

G. MOORE, Clerk of the Executive Council.