

Fuel Quality Standards Amendment Regulations 2003 (No. 1) 2003 No. 355

EXPLANATORY STATEMENT

STATUTORY RULES 2003 No. 355

ISSUED BY AUTHORITY OF THE MINISTER FOR THE ENVIRONMENT AND HERITAGE

Subject - *Fuel Quality Standards Act 2000*

Fuel Quality Standards Amendment Regulations 2003 (No. 1)

Section 73 of the *Fuel Quality Standards Act 2000* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

National fuel quality standards have been introduced for petrol, diesel and biodiesel. Standards for liquefied petroleum gas (LPG) are expected to be introduced by the end of 2003. The standards are set by the Minister for the Environment and Heritage in Determinations under the Act.

The *Fuel Quality Standards Regulations 2001* (the Principal Regulations) provide the detail for the requirements prescribed under the Act in relation to compliance with fuel quality standards, including record keeping and documentation requirements.

The purpose of the proposed Regulations is to clarify and correct a number of definitions in the Principal Regulations; add new definitions; and simplify a number of onerous documentation and record keeping requirements to facilitate full compliance by the fuel industry with the Act and the Principal Regulations.

Details of the proposed Amendment Regulations are provided in the Attachment.

The Act does not specify any conditions that need to be met before the power to make the proposed Amendment Regulations may be exercised.

Each of the Amendment Regulations commenced on gazettal.

Authority:

Section 73 of the *Fuel Quality Standards Act 2000*

Attachment

Details of the proposed *Fuel Quality Standards Amendment Regulations 2003 (No. 1)*

Regulation 1: Name of Regulations

Names the proposed Regulations as the *Fuel Quality Standards Amendment Regulations 2003 (No. 1)*.

Regulation 2: Commencement

Provides that the proposed Regulations commence on gazettal.

Regulation 3: Amendment to *Fuel Quality Standards Regulations 2001*

Provides that Schedule 1 of the proposed Regulations amends the *Fuel Quality Standards Regulations 2001* (the Principal Regulations).

Schedule 1

Item [1]: Subregulation 3(1), definition of blend

Amends the definition of ***blend*** under Regulation 3 of the Principal Regulations to include combining fuel with another fuel and not just combining fuel with another substance. The proposed amendment would ensure that blending of ethanol with petrol is not excluded from the definition of blend once ethanol is defined as a ***fuel*** in the Regulations (item [4] below). This would also ensure that blending of other fuels identified in the Principal Regulations, such as diesel blended with biodiesel, is covered by the legislation.

Item [2]: Subregulation 3(1), after definition of *contact details*

Inserts a definition of ***distributor*** under Regulation 3 of the Principal Regulations for the purposes of monitoring compliance with the legislation. Regulation 28 of the Principal Regulations prescribes record keeping requirements for service station operators and distributors. Due to the nature of the gas supply chain, there is some confusion in the LPG industry as to what a distributor is in terms of the Act. The proposed Regulation would clearly define distributors under the legislation.

Item [3]: Paragraph 3(2)(f)

Broadens the definition of ***diesohol*** under Regulation 3 of the Principal Regulations. Preliminary work on a possible fuel quality standard for diesohol has revealed that the current definition in the Principal Regulations is too narrow. Diesohol can be other compositions of diesel and alcohol and not just diesel with hydrated ethanol as is currently specified. The proposed Regulations would define diesohol to ensure that all forms of diesohol are captured by any fuel quality standard that may be implemented under the Act.

Item [4]: Paragraphs 3(2)(h) and (i)

Includes ethanol under the definition of ***fuel*** in Regulation 3 of the Principal Regulations to provide the Minister with the power to set a fuel quality standard for ethanol blended with petrol.

On 1 July 2003 a 10% limit on the ethanol content of petrol was introduced by amendment to the *Fuel Standard (Petrol) Determination 2001*. A fuel standard is now being developed to regulate the quality of ethanol blended with petrol. Ethanol, however, is not currently covered by the definition of ***fuel*** in the Principal Regulations. An amendment is, therefore, proposed to

include ethanol as a fuel under the Act in order to provide the Minister with the power to set a fuel standard for the quality of ethanol that is blended with petrol.

Item [5]: Regulation 3A

As the temporary exemption under the *Trans-Tasman Mutual Recognition Act 1997* ceased to have effect at the end of 31 December 2002, Regulation 3A of the Principal Regulations is redundant and can now be deleted.

Item [6]: Subregulations 7A(3), (4) and (5)

The first set of fuel standards for petrol and diesel were introduced on 1 January 2002. The practical application of the Act and Principal Regulations has highlighted a number of onerous requirements on fuel suppliers that would hinder full compliance with the legislation.

The proposed amendment would remove the onerous requirement under Regulation 7A of the Principal Regulations for tanker drivers to provide copies of all documentation they received relating to a load of fuel to the customer they are supplying the fuel to. They would still, however, be required to keep these documents under the record keeping requirements specified in Regulation 27 for monitoring compliance and enforcement purposes. All they would be required to provide to the customer is one document that sets out the information specified in the Regulation. This would remove the potential problem of a tanker driver having to produce numerous copies of documentation when they are out in remote locations delivering fuel.

The requirements for documentation under the Principal Regulations are inconsistent in respect of a fuel supplier who supplies fuel through a contracted fuel carrier and a fuel supplier who operates a vehicle to supply fuel. In the first instance the fuel supplier does not have to state in the documentation where the fuel was obtained from, however, this requirement applies in the latter. The proposed amendment would result in a consistent approach for all fuel suppliers in that suppliers who operate a vehicle would not be required to provide potentially commercially sensitive information to the customer about where they obtained the fuel. They would still, however, be required to keep this information, pursuant to Regulation 27, and make it available to inspectors when requested (item [9] below).

Items [7] & [8]: Paragraphs 25(g) and 26(2)(i)

There is a need to remove the requirement under Regulations 25, 26 and 28 of the Principal Regulations for all LPG suppliers to keep stock reconciliation records. While stock reconciliation records are important for monitoring compliance and enforcement, due to the nature of the gas supply chain, it is not possible for some LPG suppliers to reconcile sales of autogas as currently required by the Principal Regulations. The only point of supply where stock reconciliation records can be produced is at the service station.

LPG supplied as "autogas" is not always identified as such when it is produced or imported. LPG is supplied as dual purpose propane or as a propane/butane mix. While the propane/butane mix can only be sold as autogas, distributors do not know how much of the dual purpose propane is supplied as autogas to the end user. Accordingly the proposed Regulation would remove the need for LPG suppliers to keep stock reconciliation records except for suppliers at the service station or end point of supply.

Item [9]: Regulation 27, Records for operators of vehicles

As outlined in item [6] above, the amendment to Regulation 27 of the Principal Regulations would pick up the requirement for suppliers who operate a vehicle to keep certain information and documentation that they would no longer be required to provide to the customer with the

amendment to Subregulations 7A (3), (4) and (5), namely all documentation they received relating to loads of fuel and information on where and when they obtained the fuel.

Items [10] & [11]: Regulation 28, Records for service station operators and distributors

The amendments to Regulation 28 of the Principal Regulations would address the same issue outlined for items [7] and [8] above, that not all suppliers of LPG autogas can produce stock reconciliation records due to the nature of the LPG supply chain.

Item [12]: Paragraph 29(b)

Regulation 29 of the Principal Regulations prescribes the address and email address to which annual statements for the purposes of the Act must be sent. The amendment to Regulation 29 would reflect the new arrangements for standardising the names of Commonwealth Government Departments. "Environment Australia" is now known only as the Department of the Environment and Heritage. Hence the email address has changed from "fuel.quality@ea.gov.au" to "fuel.quality@deh.gov.au".