



Protection of the Environment Operations (Clean Air) Amendment Regulation 2004

under the

Protection of the Environment Operations Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Protection of the Environment Operations Act 1997*.

BOB DEBUS, M.P.,
Minister for the Environment

Explanatory note

The objects of this Regulation are:

- (a) to specify requirements relating to the vapour pressure of petrol supplied by certain petrol suppliers in certain areas in New South Wales (the *low volatility zone*) during summer of each year, and
- (b) to require those petrol suppliers to keep records and make reports to the Environment Protection Authority in relation to petrol supplied in the low volatility zone during summer, and
- (c) to require certain petrol suppliers to keep records and make reports to the Environment Protection Authority for certain periods between 1 July 2004 and 31 December 2005 in relation to the benzene content of petrol, and
- (d) to enable penalty notices to be issued in relation to offences created by the Regulation.

This Regulation is made under the *Protection of the Environment Operations Act 1997*, including section 323 (the general regulation-making power) and clauses 6A and 15 of Schedule 2.

This Regulation refers to ASTM D4953–99a *Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method)* as in force from time to time and as published by the American Society for Testing and Materials.

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Clause 1 Protection of the Environment Operations (Clean Air) Amendment
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**Protection of the Environment Operations (Clean Air)
Amendment Regulation 2004**

under the

Protection of the Environment Operations Act 1997

1 Name of Regulation

This Regulation is the *Protection of the Environment Operations (Clean Air) Amendment Regulation 2004*.

2 Commencement

- (1) Except as provided by subclause (2), this Regulation commences on 1 July 2004.
- (2) Schedule 1 [4] and 2 [2] commence on 15 November 2004.

3 Amendment of Protection of the Environment Operations (Clean Air) Regulation 2002

The *Protection of the Environment Operations (Clean Air) Regulation 2002* is amended as set out in Schedule 1.

4 Amendment of Protection of the Environment Operations (Penalty Notices) Regulation 1999

The *Protection of the Environment Operations (Penalty Notices) Regulation 1999* is amended as set out in Schedule 2.

Schedule 1 Amendment of Protection of the Environment Operations (Clean Air) Regulation 2002

(Clause 3)

[1] Clause 7 Definitions

Insert in alphabetical order:

refine, in relation to petrol, includes refine crude petroleum or shale oil.

supply includes:

- (a) sell by wholesale, retail, auction or tender, and
- (b) offer to supply, and
- (c) barter or exchange, and
- (d) supply for profit, and
- (e) consign or deliver for sale, and
- (f) cause or permit anything referred to above.

[2] Part 3, Division 5

Omit the heading. Insert instead:

Division 5 Transfer of petrol

[3] Part 3, Division 6

Insert after Division 5 of Part 3:

Division 6 Reporting and record keeping relating to benzene content of petrol

19A Definition

In this Division, *petrol supplier* means a person who imports petrol by ship into this State for supply by the person (whether the petrol was obtained from another State or Territory or from another country) or refines petrol in this State.

19B Records relating to benzene content of petrol

- (1) For the purposes of this clause, each of the following periods is a *relevant period*:

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- (a) 1 July 2004 to 31 December 2004 (inclusive),
 - (b) 1 January 2005 to 30 June 2005 (inclusive),
 - (c) 1 July 2005 to 31 December 2005 (inclusive).
- (2) A petrol supplier must, for each relevant period, keep a record of the following information in accordance with this clause:
- (a) for each grade of petrol imported by ship into this State, or refined in this State, by the petrol supplier during the period concerned:
 - (i) the total volume of the petrol, and
 - (ii) the volumetric average benzene content (expressed as a percentage to one decimal place) of that volume, and
 - (iii) the minimum and maximum benzene content measurements obtained from tests carried out for the purposes of subparagraph (ii),
 - (b) the test methods used to determine the benzene content of that petrol.
- Maximum penalty: 100 penalty units in the case of a corporation, or 50 penalty units in the case of an individual.
- (3) The petrol supplier must keep a record referred to in subclause (2) for at least 2 years after the end of the relevant period to which the record relates.
- (4) For the purposes of this clause, the grades of petrol include unleaded, premium unleaded, lead replacement petrol and other higher octane petrol (however described).

19C Reporting of benzene content of petrol

- (1) A petrol supplier must, within 6 weeks after the end of each relevant period referred to in clause 19B (1), provide a report to the EPA, in a form approved by the EPA, containing the information required to be kept under that clause for that period.

Maximum penalty: 100 penalty units in the case of a corporation, 50 penalty units in the case of an individual.

- (2) A person must not provide any information to the EPA in a report under this clause that the person knows is false or misleading in a material particular.

Maximum penalty: 100 penalty units in the case of a corporation, or 50 penalty units in the case of an individual.

[4] Part 3, Division 7

Insert after Division 6 of Part 3 (as inserted by item [3]):

Division 7 Petrol volatility

19D Definitions

- (1) In this Division:

base petrol means petrol that does not contain ethanol.

blend, in relation to petrol, means combine petroleum-based products with ethanol.

low volatility zone means the area consisting of the following local government areas:

Ashfield, Auburn, Bankstown, Baulkham Hills, Blacktown, Blue Mountains, Botany Bay, Burwood, Camden, Campbelltown, Canada Bay, Canterbury, Cessnock, Fairfield, Gosford, Hawkesbury, Holroyd, Hornsby, Hunters Hill, Hurstville, Kiama, Kogarah, Ku-ring-gai, Lake Macquarie, Lane Cove, Leichhardt, Lithgow, Liverpool, Maitland, Manly, Marrickville, Mosman, Muswellbrook, Newcastle, North Sydney, Parramatta, Penrith, Pittwater, Port Stephens, Randwick, Rockdale, Ryde, Shellharbour, Shoalhaven, Singleton, Strathfield, Sutherland, Sydney, Warringah, Waverley, Willoughby, Wingecarribee, Wollondilly, Wollongong, Woollahra, Wyong.

month, in relation to a summer, includes each of the periods from 15 November to 30 November (inclusive) and 1 March to 15 March (inclusive).

monthly volumetric average vapour pressure of petrol means the monthly volumetric average vapour pressure of the petrol as calculated in accordance with clause 19E.

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petrol supplier means a person who imports petrol into this State for supply by the person (whether the petrol was obtained from another State or Territory or from another country) or refines or blends petrol in this State.

prescribed blended petrol means petrol containing 9 per cent or more of ethanol by volume but not more than 10 per cent of ethanol by volume.

summer of a particular year means the period commencing on 15 November in that year and ending on 15 March (inclusive) in the following year.

vapour pressure of petrol means the volatility of the petrol at 37.8 degrees Celsius measured:

- (a) in accordance with ASTM D4953–99a *Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method)* as in force from time to time and as published by the American Society for Testing and Materials, or
 - (b) in the case of petrol supplied by a particular petrol supplier, using such other method as is approved in relation to that petrol supplier for the time being by the EPA under subclause (2).
- (2) On application made by a petrol supplier, the EPA may, for the purposes of paragraph (b) of the definition of ***vapour pressure*** in subclause (1), approve in writing a method for measuring the volatility of petrol in relation to petrol supplied by that petrol supplier.
 - (3) The EPA may, by notice in writing given to a petrol supplier, revoke or vary an approval given to the petrol supplier under subclause (2).

19E Monthly volumetric average vapour pressure

- (1) For the purposes of this Division, ***monthly volumetric average vapour pressure*** of petrol supplied in a particular month of summer by a petrol supplier is to be calculated as follows:
 - (a) a sample is to be taken from each batch of the petrol supplied in the month by the petrol supplier,
 - (b) the vapour pressure of each sample taken is to be multiplied by a fraction that equals the volume of the

petrol in the batch from which the sample was taken divided by the total volume of the petrol supplied in the relevant month,

- (c) the figures calculated in accordance with paragraph (b) for each sample of petrol are to be added together and the resulting figure is the monthly volumetric average vapour pressure.
- (2) One test method only is to be used in measuring vapour pressure to calculate the monthly volumetric average vapour pressure for a particular month.

19F Vapour pressure of petrol

- (1) A petrol supplier must not supply petrol in the low volatility zone in any summer if the vapour pressure of the petrol is more than:
- (a) in the case of prescribed blended petrol—72 kPa for petrol supplied in a summer commencing in 2004 or 71 kPa for petrol supplied in any subsequent summer, or
 - (b) in the case of any other petrol—65 kPa for petrol supplied in a summer commencing in 2004 or 64 kPa for petrol supplied in any subsequent summer.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

- (2) A petrol supplier who imports petrol into this State, or refines petrol in this State, must ensure that the monthly volumetric average vapour pressure of so much of that petrol (other than blended petrol) as is supplied by the petrol supplier in the low volatility zone in a summer is not more than 62 kPa.

Maximum penalty: 400 penalty units in the case of a corporation, or 200 penalty units in the case of an individual.

- (3) It is a defence to any proceedings against a person for an offence under subclause (1) if the defendant establishes that:
- (a) the petrol concerned was prescribed blended petrol, and
 - (b) the defendant had reasonable grounds to believe, and did believe, that the vapour pressure of the base petrol used in the blended petrol complied with subclause (1)(b) based on documentation supplied to the defendant by the supplier of the base petrol, and

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- (c) the defendant did not know, and had no reasonable grounds to suspect, that the documentation was false or misleading in a material respect.
- (4) It is a defence to any proceedings against a person for an offence under this clause if the defendant establishes that the petrol concerned:
 - (a) was supplied by way of retail sale by the defendant from a petrol service station, and
 - (b) was stored, immediately before the commencement of the summer in which it was supplied, at the petrol service station.
- (5) It is a defence to any proceedings against a person for an offence under this clause if:
 - (a) the defendant establishes that:
 - (i) the petrol concerned was supplied solely for use in a motor vehicle in a motor racing event conducted on a motor vehicle racing ground in respect of which a licence is in force under the *Motor Vehicle Sports (Public Safety) Act 1985* or in a test of a motor vehicle for any such event, or
 - (ii) the petrol concerned was supplied solely for the purpose of testing to determine the composition, quality or characteristics of the petrol, and
 - (b) the defendant establishes that the defendant believed on reasonable grounds that the petrol would be used solely for that purpose.
- (6) A person is not guilty of an offence against subclause (1) or (2) in respect of any act or omission that was authorised or required by an order, proclamation, regulation or direction made or given under Part 6 of the *Energy Administration Act 1987*.
- (7) If such an order, proclamation, regulation or direction is in force for part of a month in summer, it is taken, for the purposes of subclause (6) (in so far as it relates to an offence against subclause (2)), to have been in force for the whole of the month.

19G Record keeping

- (1) A petrol supplier who supplies petrol in the low volatility zone during summer must keep records in relation to that petrol, in accordance with this clause, for a period of at least 2 years.

Maximum penalty: 100 penalty units in the case of a corporation, or 50 penalty units in the case of an individual.

- (2) The following records are to be kept in relation to petrol that is prescribed blended petrol:
- (a) if the petrol was blended in a tanker truck:
 - (i) the volume of prescribed blended petrol contained in each tanker truck, and
 - (ii) the ethanol content by volume of the petrol in each tanker truck,
 - (b) if the petrol was blended otherwise than in a tanker truck:
 - (i) the volume of prescribed blended petrol in each batch, and
 - (ii) the ethanol content by volume of each batch.
- (3) The following records are to be kept in relation to blended petrol that is not prescribed blended petrol:
- (a) if the petrol was blended in a tanker truck:
 - (i) the vapour pressure of at least 4 samples of blended petrol taken each month from different tanker trucks on separate days and at regular intervals, and
 - (ii) the date or dates on which the vapour pressure of the samples was tested, and
 - (iii) the test method used to determine the vapour pressure of the blended petrol, and
 - (iv) the volume of blended petrol contained in each tanker truck from which the samples of petrol were taken for testing, and
 - (v) the volume of blended petrol contained in each tanker truck from which a sample was not taken for testing, and

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- (vi) the ethanol content by volume of each tanker truck of petrol from which the samples were taken for testing,
- (b) if the petrol was blended otherwise than in a tanker truck:
 - (i) the vapour pressure of a sample of blended petrol taken from each batch, and
 - (ii) the date or dates on which the vapour pressure of the samples was tested, and
 - (iii) the test method used to determine the vapour pressure of the blended petrol, and
 - (iv) the volume of blended petrol in each batch, and
 - (v) the ethanol content by volume of each batch.
- (4) The following records are to be kept in relation to petrol that is not blended:
 - (a) the monthly volumetric average vapour pressure of the petrol,
 - (b) the vapour pressure of each sample of petrol from each batch tested to calculate the monthly volumetric average vapour pressure of the petrol,
 - (c) the date or dates on which the vapour pressure of the samples was tested,
 - (d) the test method used to determine the vapour pressure of the petrol,
 - (e) the volume of petrol in each batch.
- (5) A petrol supplier who blends petrol, but does not import petrol into this State or refine petrol in this State, is not required to keep the records referred to in subclause (4).

19H Reporting

- (1) A petrol supplier who supplies petrol in the low volatility zone during any month in summer must, within 14 days after the end of the month, provide a report to the EPA in a form approved by the EPA and containing the following information in relation to that petrol:
 - (a) the monthly volumetric average vapour pressure of any petrol supplied in that month that was not blended petrol,

- (b) the maximum vapour pressure of any blended petrol that was not prescribed blended petrol, that was supplied in that month and from which samples were taken for the purposes of this Division,
- (c) the maximum vapour pressure of any petrol that was not blended petrol, that was supplied in that month and from which samples were taken for the purposes of this Division,
- (d) the total volume of prescribed blended petrol supplied in that month,
- (e) the total volume of other blended petrol supplied in that month,
- (f) the total volume of petrol supplied in that month that was not blended petrol.

Maximum penalty: 100 penalty units in the case of a corporation, or 50 penalty units in the case of an individual.

- (2) A petrol supplier who blends petrol, but does not import petrol into this State or refine petrol in this State, is not required to provide the information referred to in subclause (1) (a) and (f).
- (3) A person must not provide any information to the EPA in a report under this clause that the person knows is false or misleading in a material particular.

Maximum penalty: 100 penalty units in the case of a corporation, or 50 penalty units in the case of an individual.

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Schedule 2 Amendment of Protection of the Environment Operations (Penalty Notices)
Regulation 1999

**Schedule 2 Amendment of Protection of the
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(Clause 4)

[1] Schedule 1 Penalty notice offences

Insert in appropriate order in Columns 1, 2, 3 and 4 under the heading
“**Protection of the Environment Operations (Clean Air) Regulation
2002**”:

| | | | |
|----------------|---|-------|-------|
| Clause 19B (2) | 2 | \$300 | \$600 |
| Clause 19C (1) | 2 | \$300 | \$600 |

[2] Schedule 1

Insert in appropriate order in Columns 1, 2, 3 and 4 under the heading
“**Protection of the Environment Operations (Clean Air) Regulation
2002**”:

| | | | |
|----------------|---|-------|--------|
| Clause 19F (1) | 2 | \$750 | \$1500 |
| Clause 19F (2) | 2 | \$750 | \$1500 |
| Clause 19G (1) | 2 | \$300 | \$600 |
| Clause 19H (1) | 2 | \$300 | \$600 |

BY AUTHORITY
