Mandatory blending of biofuels with petrol, diesel to start in 2015

By Emma Dempster

7 Oct 2013

In 2007, the Government of South Africa published the Biofuels Industrial Strategy of the Republic of SA (Department of Minerals and Energy) ("Biofuels Strategy") outlining the governments approach to policy, regulations and incentives in respect of biofuels. 'Biofuels' include bioethanol, produced from sugar and starch crops such as corn or sugarcane; and biodiesel, produced from vegetable oils. The development of the industrial strategy and the establishment of a biofuels industry is aimed at stimulating South Africa's underdeveloped rural communities with a bio-fuels value chain as well as being in line with South Africa's aim of moving towards using cleaner fuels that have a lower sulphur content and produce less greenhouse gas emissions by 2017.

It was envisaged in the Biofuels Strategy that biofuels can be used as blending components in both petrol and diesel production. Accordingly, in line with the Biofuels Strategy, the Department of Energy promulgated the Regulations Regarding the Mandatory Blending of Biofuels with Petrol and Diesel (Government Gazette No. 35623, 23 August 2012) ("Regulations") to regulate the mandatory blending of bio-ethanol or biodiesel with petroleum petrol or petroleum diesel, respectively, to produce a biofuel blend that may be sold in South Africa. The regulations will come into effect on a date to be determined by the Minister of Energy by notice in the Government Gazette. In a notice published in the Government Gazette on Monday, 30 September 2013, the Minister of Energy determined 1 October 2015 as the date on which the regulations come into operation.

Key provisions of the Regulations

Section 3 of the Regulations provides that:

- a licenced petroleum manufacturer must only purchase biofuels from a licensed biofuels manufacturer;
- when a licensed biofuels manufacturer supplies biofuel to a blending facility of a licensed petroleum manufacturer; that biofuel must be accompanied by a quality assurance certificate;
- a licensed petroleum manufacturer must pay the regulated price (being the transfer price of biodiesel or bio-ethanol, as regulated by the Minister of Energy) for the biofuels sold to it by a licensed biofuels manufacturer;
- all petroleum petrol and diesel supplied to a blending facility must allow for the blending of biofuels to the effect that the allowed minimum concentration of the biofuel in the final blended biofuel complies with (i) the minimum concentration to be allowed for biodiesel blending, mainly 5% by volume; and (ii) the permitted range for bio-ethanol blending, namely from 2% by volume up to 10% by volume.

Section 4 of the Regulations provides that a licensed petroleum manufacturer may not refuse to purchase bioethanol or biodiesel unless it is able to provide prove that it does not have sufficient volumes of petroleum petrol or petroleum diesel to accommodate the volume of bio-ethanol or biodiesel being sold. In this regard, all petroleum petrol or petroleum diesel produced by a licensed petroleum manufacturer is considered to be destined for the blending facility.

Section 5 provides that all licensed manufacturers of bio-ethanol and biodiesel must submit records to the Department of Energy at the end of each month. Included in these records must be (i) volumes of bio-ethanol or biodiesel manufactured; (ii) volumes of bio-ethanol or biodiesel sold to licensed petroleum manufacturers; and (iii) names of licensed petroleum manufacturers to which the biodiesel or bio-ethanol was sold. Licensed petroleum manufacturers are expected to submit similar records monthly.

Next steps

In the Industrial Strategy Update on the BioFuels by the Department of Energy dated 13 August 2013, it was announced that the long wait for the publication of the notice setting the effective date of the Regulations as being a result of the delay in finalising the biofuels pricing framework. Although the government has implemented current tax incentives (the exemption of biofuels from fuel tax; a 50% general fuel levy rebate on biodiesel; and a three-year "accelerated depreciation allowance" for such renewable energy projects), these incentives are currently indicated as being insufficient. Further, bioethanol currently falls outside the fuel tax net and therefore no fuel tax rebates apply to ethanol for fuel blending purposes. There is still a need for further development of the biofuels industry, including the publication and finalisation of draft pricing regulations and rules for administering the biofuels prices. As a result, the Regulations will only become effective once a biofuels support mechanism is finalised.

ABOUT EMMA DEMPSTER

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