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L.N. 410 of 2017

MALTA RESOURCES AUTHORITY ACT (CAP. 423)

Lifecycle Greenhouse Gas Emissions from Fuels (Amendment) Regulations, 2017

IN exercise of the powers conferred by article 28 of the Malta Resources Authority Act, the Minister for the Environment, Sustainable Development and Climate Change, after consultation with the Malta Resources Authority, has made the following regulations:

Title.

1. The title of these regulations is the Lifecycle Greenhouse Gas Emissions from Fuels (Amendment) Regulations, 2017 and these regulations shall be read and construed as one with the Lifecycle Greenhouse Gas Emissions from Fuels Regulations hereinafter referred to as "the principal regulations".

S.L. 423.48

Amends regulation 1 of the principal regulations.

2. Sub-regulation (2) of regulation 1 of the principal regulations shall be substituted by with the following:

"(2) These regulations transpose Article 7a of Directive 98/70/EC by setting, in respect of road vehicles, non-road mobile machinery (including inland waterway vessels when not at sea), agricultural and forestry tractors, and recreational craft when not at sea, a target for the reduction of life cycle greenhouse gas emissions, and transpose Council Directive (EU) 2015/652 by laying down rules on calculation methods and reporting requirements.".

Amends regulation 2 of the principal regulations.

3. Regulation 2 of the principal regulations shall be amended as follows:

(a) immediately after the definition "the Act" there shall be added the following definition:

" "ASTM D287" means the American Society for Testing and Materials Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method);";

(b) immediately after the definition "Clean Development Mechanism" there shall be added the following new definitions:

" "conventional crude" means any refinery raw material exhibiting an API gravity that is higher than 10 degrees when situated in a reservoir formation at its place of origin as

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measured per testing method ASTM D287, and not falling within the definition for CN code 2714 as set out in Regulation (EEC) No 2658/87;";

"Council Regulation (EEC) No 2658/87" means Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff;

"fuel baseline standard" means a fuel baseline standard based on the life cycle greenhouse gas emissions per unit of energy from fossil fuels in 2010;";

(c) immediately after the definition "life cycle greenhouse gas emissions" there shall be added the following new definitions:

" "low indirect land-use change-risk biofuels" means biofuels, the feedstocks of which were produced within schemes which reduce the displacement of production for purposes other than for making biofuels and which were produced in accordance with the sustainability criteria for biofuels set out in regulation 3 of the Biofuels (Sustainability Criteria) Regulations;

S.L. 545.28

"natural bitumen" means any source of refinery raw material that:

(a) has an American Petroleum Institute (API) gravity of 10 degrees or less when situated in a reservoir formation at the place of extraction as defined pursuant to the testing method ASTM D287;

(b) has an annual average viscosity at reservoir temperature greater than that calculated by the equation: Viscosity (Centipoise) = $518{,}98^{e-0{,}038T}$, where T is the temperature in Celsius;

(c) falls within the definition for tar sands under combined nomenclature (CN) code 2714 as outlined in Council Regulation (EEC) No 2658/87; and

(d) where the mobilisation of the source of the raw material is achieved by mining extraction or thermally enhanced gravity drainage where the thermal energy is mainly derived from sources other than the feedstock source itself;

" "oil shale" means any source of refinery raw material as situated in a rock formation containing solid kerogen and falling

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within the definition for oil shale under CN code 2714 as outlined in Regulation (EEC) No 2658/87. Mobilisation of the source of the raw material is achieved by mining extraction or thermally enhanced gravity drainage;

"renewable liquid and gaseous transport fuels of non-biological origin" means liquid or gaseous fuels other than biofuels whose energy content comes from renewable energy sources other than biomass, and which are used in transport;"

"starch-rich crops" means crops comprising mainly cereals (regardless of whether only the grains are used or the whole plant, such as in the case of green maize, is used), tubers and root crops (such as potatoes, Jerusalem artichokes, sweet potatoes, cassava and yams), and corm crops (such as taro and cocoyam);"; and

(d) immediately after the definition "supplier" there shall be added the following new definition:

" "upstream emissions" means all greenhouse gas emissions occurring prior to the raw material entering a refinery or a processing plant where the fuel, as referred to in the First Schedule, was produced.".

4. Regulation 3 of the principal regulations shall be amended as follows

Amends regulation 3 of the principal regulations.

(a) immediately after sub-regulation (1) thereof, there shall be added the following new paragraph:

"In the case of suppliers of biofuels for use in aviation, such suppliers may choose to become contributors to the reduction obligation laid down in sub-regulation (3) provided that those biofuels comply with the sustainability criteria set out in regulation 3 of the Biofuels (Sustainability Criteria) Regulations.";

S.L. 545.28

(b) sub-regulation (2) thereof shall be substituted by the following:

"(2) Suppliers shall report to the Authority on the greenhouse gas intensity of fuel and energy supplied by providing, as a minimum, the following information:

(a) the total volume of each type of fuel or energy supplied, indicating where purchased and its origin;

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(b) the life cycle greenhouse gas emissions per unit of energy;

(c) on the biofuel production pathways;

(d) volumes of biofuels derived from the feedstocks as categorised in Part A of the Fourth Schedule; and

(e) the life cycle greenhouse gas emissions per unit of energy, including the provisional mean values of the estimated indirect land-use change emissions from biofuels:

Provided that:

(a) suppliers shall report data using the definitions and the calculation method set out in the First Schedule:

(b) the data shall be reported annually using the template set out in the Third Schedule;

(c) such report shall:

(i) be submitted annually by the end of March of each year in respect of the previous calendar year;

(ii) shall be in accordance to any guidelines that the Authority may establish or adopt;

(iii) shall be subject to verification; and

(d) for suppliers that are SMEs, the simplified method set out in the First Schedule shall apply.";

(c) sub-regulation (3) thereof shall be substituted by the following:

"(3) Suppliers shall reduce as gradually as possible life cycle greenhouse gas emissions per unit of energy from fuel and energy supplied by up to 10% by the 31st December 2020, compared with the fuel baseline standard specified by the Authority based on the life cycle greenhouse gas emissions per unit of energy from fossil fuels. Such reduction shall consist of:

(a) 6% by the 31st December 2020;

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(b) an indicative additional target of 2% by the 31st December 2020, to be achieved through one or both of the following methods:

(i) the supply of energy for transport supplied for use in any type of road vehicle, non-road mobile machinery, agricultural or forestry tractor or recreational craft;

(ii) the use of any technology (including carbon capture and storage) capable of reducing life cycle greenhouse gas emissions per unit of energy from fuel or energy supplied:

Provided that such indicative additional target may be subject to adjustments in order to assess possible contributions for reaching a greenhouse gas reduction target of up to 10% by 2020;

(c) an indicative additional target of 2% by the 31st December 2020 to be achieved through the use of credits purchased through the Clean Development Mechanism of the Kyoto Protocol under the conditions set out in Directive 2003/87/EC, for reductions in the fuel supply sector:

Provided that additional measures may be introduced by the Authority to allow suppliers to reduce by 2% life cycle greenhouse gas emissions per unit of energy, in comparison with a fuel baseline standard based on the life cycle greenhouse gas emissions per unit of energy from fossil fuels, through the use of credits purchased through the Clean Development Mechanism of the Kyoto Protocol under the conditions set out in Directive 2003/87/EC.

For the purposes of this sub-regulation, suppliers shall use the calculation method set out in the First Schedule to determine the greenhouse gas intensity of the fuels they supply.

For the purposes of this sub-regulation, suppliers shall report data using the definitions and the calculation method set out in the First Schedule. The data shall be reported annually using the template set out in the Third Schedule.

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For the purposes of verifying compliance by suppliers with their obligation under this sub-regulation, suppliers shall compare their achieved reductions of life cycle greenhouse gas emissions from fuels and from electricity to the fuel baseline standard set out in the Second Schedule."; and

(d) immediately after sub-regulation (5) thereof shall be added the following new paragraph and sub-regulation:

"For the purposes of this sub-regulation, a group of suppliers choosing to be considered as a single supplier shall meet its obligation under sub-regulation (3) within the Maltese territory.

(6) The Authority may provide that the maximum contribution of biofuels produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land for the purpose of compliance with the target referred to in sub-regulation (3) shall not exceed the maximum contribution established in point (d) of the second sub-paragraph of Article 3(4) of Directive 2009/28/EC.".

Adds new regulation 3A to the principal regulations.

5. Immediately after regulation 3 of the principal regulations there shall be added the following new regulation:

"Offences and penalties.

3A. (1) Any person who:

(a) wilfully or through negligence acts in breach of any provision of these regulations;

(b) fails to comply with any lawful order by an inspector, employee or officer of the Authority in execution of their duties in terms of these regulations;

(c) hinders, obstructs, molests or interferes or attempts to hinder, obstruct, molest or interfere with any inspector, any employee or officer of the Authority in the execution of his duties in terms of these regulations;

(d) makes a declaration for any of the purposes of these regulations which is false, misleading or incorrect in any material respect,

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shall be guilty of an offence against these regulations and shall, on conviction, be liable to imprisonment for not more than eighteen months, or to a fine (*multa*) of not more than sixty-nine thousand and eight hundred and eighty-one euro and twenty cents (69,881.20), or to one thousand and three hundred and ninety-seven euro and sixty-two cents (1,397.62) for each day during which the offence persists, or to both such fine and imprisonment.

(2) The liability of an offender under sub-regulation (1) shall be without prejudice to the liability of the offender to pay to the Authority any cost incurred in removing the cause of the offence and to undo anything which was done without an authorisation.

(3) The Court, besides awarding the punishment referred to in this regulation, may order the convicted offenders to close their activity and, or to undo anything which was done without an authorisation.

(4) In the prosecution of offences against these regulations officials of the Authority shall have the right to assist the police, and to plead the case before the Court.

(5) Officers from the Authority may assist the Police in the exercise of any of their powers to prevent the commission of an offence against these regulations and, or to secure evidence concerning any such offence.

(6) The provisions of these regulations shall not affect any criminal proceedings and, or any other proceedings that may be instituted under any other law.".

Adds new Schedules to the principal regulations.

6. Immediately after regulation 4 of the principal regulations there shall be added the following new Schedules:

"FIRST SCHEDULE

ANNEX I of Council Directive (EU) 2015/652 shall be applicable in its entirety as the First Schedule to these regulations.

SECOND SCHEDULE

ANNEX II of Council Directive (EU) 2015/652 shall be applicable in its entirety as the Second Schedule to these regulations.

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THIRD SCHEDULE

ANNEX IV of Council Directive (EU) 2015/652 shall be applicable in its entirety as the Third Schedule to these regulations.

FOURTH SCHEDULE

ANNEX V of Directive 98/70/EC, as added by ANNEX I (2) of Directive (EU) 2015/1513, shall be applicable in its entirety as the Fourth Schedule to these regulations.".

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