



Oilcode amendments

NOTE: These amendments apply from 3 July 2012.

The Oilcode is a mandatory code that aims to help industry participants make more informed decisions, improve transparency in wholesale pricing and provide access to declared petroleum products at a published terminal gate price. The code also aims to improve the operating environment for industry participants by providing access to a cost-effective and timely dispute resolution scheme as an alternative to litigation.

The Australian Competition and Consumer Commission (ACCC) plays an important role in promoting and monitoring compliance with the code and the *Competition and Consumer Act 2010* (Cth) through education, access to information and where necessary, enforcement action.

As required under the code, the Department of Resources, Energy and Tourism (RET) has conducted a review of the code and made a number of recommendations. Based on RET's recommendations, the Government has made amendments to the code, which apply from 3 July 2012. This fact sheet outlines these amendments.

Disclosure

In order to ensure that retailers have sufficient information, a supplier is required to provide a disclosure document to a retailer prior to entering into a fuel re-selling agreement.

Retailers can request a longer disclosure document

Retailers that receive a short form disclosure document from their supplier now have the right to request a long form disclosure document. This must be provided as soon as practical unless:

- the retailer has already been given the long form disclosure document
- the retailer has been given all the information that must be contained in a long form disclosure document, or
- it is not reasonable for the supplier to give the long form disclosure document.

Opening statement on disclosure documents

The opening statement on both short form and long form disclosure documents has been amended. It now informs retailers that the ACCC has published information about the code and where this information can be sourced.

Long form disclosure document—information about retailers

If a supplier has fuel re-selling agreements with less than 50 retailers, the long form disclosure document must now contain the name, address and contact details of each retailer.

If a supplier has fuel re-selling agreements with more than 50 retailers, it only need disclose the name, address and contact details of each retailer in the state, region or metropolitan area in which the fuel re-selling agreement is to operate.

A supplier does not need to provide a retailer's contact details if the retailer has requested, in writing, that their details not be disclosed.

Long form disclosure document—information about former retailers

A long form disclosure document must contain information about former retailers, including the number of fuel re-selling agreements that were transferred, terminated, not renewed or ceased to operate in the preceding three years.

For each of these events the supplier must now also provide the name, address and contact details of each retailer (or for each retailer in the state, region or metropolitan area in which the agreement is to operate, if they have fuel re-selling agreements with more than 50 retailers).

Again, a supplier does not need to provide a retailer's contact details if they have requested, in writing, that their details not be disclosed.

Preventing disclosure

A supplier must not enter into, renew or extend a fuel re-selling agreement if the contract prevents the other party from disclosing their name, business address, ACN or ARBN.

Dispute resolution—disputes about supplying declared petroleum products

Formally notifying the other party to a dispute

The code now provides that a party making a complaint about the failure to supply a declared petroleum product (the complainant), must first write a letter to the other party (the respondent) with details of the complaint, including:

- the nature of the dispute
- the outcome that the complainant seeks, and
- what action the complainant believes will settle the dispute.

Dispute resolution – other disputes

Non-binding determinations

Before a dispute resolution adviser makes a non-binding determination about a dispute the adviser may allow each party to provide information about:

- the contractual arrangements between the parties
- how the party has complied with the code
- what action the party has taken towards resolving the dispute
- how the dispute could be resolved
- if a non-binding determination was made, how much time the party would need to give effect to the determination, or
- any other matters the party considers relevant.

Full authority to enter into an agreement

When participating in dispute resolution, parties must be represented by a person who has the authority to enter into an agreement on their behalf.

Reviewing the code

RET will next review the code on or before 31 December 2013.

Where can I get more information?

Further information can be obtained from the ACCC website at www.accc.gov.au/oilcode or by contacting the ACCC Infocentre on 1300 302 502.

ACCC contacts

ACCC Infocentre
1300 302 502

Small business helpline
1300 302 021

Website
www.accc.gov.au/oilcode

Callers who are deaf or have a hearing or speech impairment can contact the ACCC through the National Relay Service, www.relayservice.com.au

TTY or modem users, phone 13 3677 and ask for 1300 302 502.

Voice-only (speak and listen) users, phone 1300 555 727 and ask for 1300 302 502

Dispute Resolution Adviser

Further information about the DRA is available at www.oilcodedra.com.au

The DRA may also be contacted on:

Telephone
1800 239 487

Fax
(02) 9264 8268

Email
info@oilcodedra.com.au

ACCC publications

The ACCC has a range of publications available to assist businesses understand their rights and obligations under the Oilcode. These are available at www.accc.gov.au/oilcode

Important notice

The information in this publication is for general guidance only. It does not constitute legal or other professional advice, and should not be relied on as a statement of the law in any jurisdiction. Because it is intended only as a general guide, it may contain generalisations. You should obtain professional advice if you have any specific concern.

The ACCC has made every reasonable effort to provide current and accurate information, but it does not make any guarantees regarding the accuracy, currency or completeness of that information.