

**Biodiesel Producers Ltd submission to the
Fuel and Used Oil Policy Section, Department
of Environment, Heritage, Water and the Arts**

**Setting National Fuel Quality Standards:
Proposed Management of Diesel/Biodiesel
Blends**

Position Paper January 2008

1. Introduction

Biodiesel Producers Ltd (BPL) makes its submission on the Government's Position Paper in the context of providing a view on the preferred diesel/biodiesel blend standard as outlined, to ensure certainty around fuel quality for consumers, fuel distributors, EOM's and the Australian Biodiesel industry.

Our position is largely consistent with that of the Biofuels Association of Australia (BAA) of which we are a member. However, there are certain issues where BPL holds a slightly different view or context. This submission therefore expands on and in some cases provides additional inputs or views to the industry submission.

The Position Paper's focus is to ensure certainty and consistency in blend standards. Equally, as acknowledged by the Position Paper, this outcome needs to be arrived at without creating "...any unnecessary barriers preventing the development of an alternate fuel market in Australia".

BPL is of the strong opinion that fuel quality and market access can be achieved mutually through clearly articulated and enforced blend standards.

2. Biodiesel Producers Ltd (BPL)

BPL is an unlisted public company that has developed a biodiesel production and distribution business in Australia. The initial plant, situated at Barnawartha Victoria has a capacity of 60 Million litres of biodiesel per year using tallow, vegetable and waste cooking oils.

The plant commenced operations in December 2007 and has successfully transitioned from its commissioning to production phase as of March 2008.

Further details regarding BPL can be accessed on www.biodieselproducers.com.au

3. Recommended Amendments to the Position Paper

The key area of difference between BPL's view and the preferred blend standard outlined in the Position Paper, relates to the treatment of blends greater than B5 that are compliant with the *Fuel Standard (Automotive Diesel) Determination 2001* (Australian Diesel Standard).

Under the Position Paper the Australian diesel standard will be amended to allow the addition of up to 5% of biodiesel. Fuel blends greater than this percentage, regardless of whether they continue to meet the Australian Diesel Standard, will be forced to seek section 13 approval under the *Fuel Quality Standards Act 2000*. This would add significant administrative and cost imposts to the Biodiesel industry - without a streamlining of the existing section 13 processes.

Our recommendation is that this percentage be increased to 20%.

Over +85%² of biodiesel sales today within the Australian market are blended fuels, between B5 and B20, which are compliant with the Australian Diesel Standard. This implies the large bulk of diesel/biodiesel blend sales today would need to seek a section 13 approval to continue.

As part of this process there has been no request for the alteration or strengthening of the existing *Fuel Standard (Biodiesel) Determination 2003* rather the emphasis has been on ensuring clarity around blends. To provide this clarity, labeling is the most appropriate policy mechanism.

¹ Setting National Fuel Standards, Proposed Diesel/Biodiesel Blend Standards, Position Paper Jan 2008 p4

² Internal BPL market analysis, March 2008.

Labeling will address many of the concerns outlined by EOM's and motoring bodies – as the consumer will be making a conscious purchase. It also takes into account the nature of the diesel market, which is dominated by commercial consumers and increasingly customers seeking out more environmentally friendly fuels.

Our recommendation is that all blends greater than B5 be clearly labeled.

It is BPL's opinion that the introduction of the Government's preferred blend standard will create a de-facto cap at B5. This has the capacity to shut down the primary route to market of biodiesel blends. This would be a clear contradiction of the intent of the blend standards by restricting consumer choice and lessening competition in the fuel market.

BPL acknowledges the need for improved clarity around quality standards though this must ensure the opportunity for continued growth in the biodiesel sector.

As such BPL has proposed the following amendments the diesel/biodiesel blend standard as listed:

1) BPL recommends the continuation of current arrangements, subject to additional conditions, that allow diesel/biodiesel blends, where both products meet their respective quality standards and the blend meets the Australian Diesel Standard, to be treated as Australian Diesel.

The additional conditions being:

- **that labeling at B5 or less would not be required;**
- **that clear labeling would be required for blends greater than B5;**
- **the maximum blend inclusion be capped at B20 under this provision.**

This represents a strengthening of the current market place in terms of quality whilst allowing for the continuation of supply to these key markets for the Biodiesel Industry. The additional conditions:

- ensure the labeling of blends greater than B5 to provide the appropriate level of clarity to fuel consumers;
- ensure that EOM's different blend level acceptances can be accommodated by the market; and
- would provide an upper limit for blends under this process.

2) BPL supports the accommodation of blends *greater than B20* through a "streamlined" section 13 approvals process.

BPL acknowledges the value of the section 13 process with regards to the supply of higher biodiesel blends however it is proposed that this comes into effect for blends greater than B20.

The approval process would need to be streamlined to allow a higher tier seller to be a "regulated person". Namely, retailers and distributors of diesel/biodiesel blends would be allowed to be a "regulated person" or party.

4. Why B5 is not the right answer

By effectively capping diesel/biodiesel blends at B5 the Government will fail to deliver on a number of key objectives in undertaking this review of diesel/biodiesel blends namely;

- **Quality** – If the quality of biodiesel was in question then this position paper should have addressed those issues. Rather the focus has been on how to improve clarity to consumers.
- **Consumer awareness** – Consumer awareness is not addressed by a B5 blend – in fact it will make biodiesel less visible to consumers. Labeling will address the issue of consumer awareness in conjunction with support from the OEM's and major and independent fuel distributors.
- **OEM's** - Moving to a B5 simply moves the standard to the lowest common denominator for biodiesel acceptance within the EOM's. This will not stimulate consumer interest and demand. Those EOM's with higher blend allowances and their potential customers are being penalised under this process.
- **Market Access and competition** – The Biodiesel Industry will effectively be forced to deal with the oil majors with a B5 cap due to their market share. The net result being that market access will be reduced resulting in diminished competition.

5. Background

5.1 Blend Standards to support the Biodiesel Industry

5.1.1 Consumer Acceptance – Labeling

The key to the long term success of the Australian Biodiesel industry rests with consumer acceptance translating into targeted demand. The development of clear and enforced standards is a critical part of this process.

As part of this process there has been no request for the alteration or strengthening of the existing *Fuel Standard (Biodiesel) Determination 2003* rather the emphasis has been on ensuring clarity around the blending process.

As such labeling is an important mechanism that would provide consumers the required clarity as stated in the position paper *“to make decisions based on sound economic, environmental and social signals”³*.

Although the sales of small passenger diesels are growing, the structure of the Australian diesel fleet is still largely dominated by commercial users with a strong appreciation for fuel quality and vehicle performance. This market is acutely aware of fuel quality and is therefore capable of making informed decision on fuel use.

The Biodiesel Industry is increasing working with commercial clients such as councils, state governments and transport firms actively seeking blends to address their greenhouse and other environmental commitments. This section of the market will also be supported by labeling advice.

Labeling allows also for the current variations in blend acceptance, by various EOM's, to be addressed without having to move to the lowest common denominator.

For these reasons BPL would see a strong case to allow for blends greater than B5 - where clearly labeled. The labeling ensures that consumers of the blend are making a conscious purchase.

³ Setting National Fuel Standards, Proposed Diesel/Biodiesel Blend Standards, Position Paper Jan 2008 p4

This in turn will stimulate enquiry with other fuel providers and OEM's in terms of compatibility, helping to grow the market in line with consumer demand.

5.1.2 Consumer acceptance - Section 13 provisions for higher blend

Where blends higher than B20 are sort, the use of the section 13 provision provides an appropriate mechanism for approval given that these blends are likely to be for specialised use.

Given that it is still expected that the two components of the blend will comply with their respective standards it would seem appropriate to provide a "streamlined" approval process that would allow retailers and distributors to seek approval as a regulated person/ party.

Labeling would still be required for these blends.

5.1.3 Motor Industry Co-operation

Motor industry co-operation is a critical factor supporting consumer acceptance.

It has been a positive step forward, in the blend submissions, to see the broad industry acceptance of B5. With the body of international work underway on higher blends we should see an evolution of future engine design to accept these higher blends as a minimum standard.

BPL has had very positive experience with a number of key EOM's that openly endorse higher blends from B20 right through to B100.

Equally, the biodiesel industry in Australia still faces many anomalies where by certain manufacturers who endorse biodiesel in Europe and the US do not endorse to the same level in Australia. Europe and US endorsements are to B100 in many cases - however nominations in Australia can vary from zero inclusion to B5.

With the introduction of the proposed blend standards as a minimum OEM's should provide consistent global positions on vehicles. The introduction of labeling should provide this level of confidence for the OEM's.

5.1.4 Fuel Industry Co-operation

To date biodiesel has not been able to compete within the market as the public currently don't have the option to choose biodiesel products at the pump. The major oil companies are critical in helping support biodiesel and broadening consumer choice however to date have done little.

The major oil companies represent 80%+ of retail and commercial fuel distribution within Australia. Only one of the major oil companies has developed any biodiesel blending capacity within the Australian market as at the time of preparing this report.

In the absence of the majors as buyers of biodiesel - the independent distributors have been the primary route to market for biodiesel sales. Over +85%⁴ of biodiesel sales today within the Australian market are blended fuels, between B5 and B20, which are compliant with the Australian Diesel Standard.

The independent market has been able to grow the sales of biodiesel through marketing the environmental credentials of the blended fuel whilst remaining price competitive to the majors. This has been done whilst maintaining compliance to the Australian Diesel Standard.

These higher blends have allowed financial benefits to be passed to consumers. If effectively capped at B5, no discount would be available to consumers and no

⁴ Internal BPL market analysis, March 2008.

marketing advantage would exist for the independents. Importantly, from a Biodiesel Industry perspective, at these blend levels the financial justification to develop blending infrastructure would not exist.

These independent sales are a critical element in the development and growth of a local Biodiesel industry. Without these independent sales for biodiesel the local industry would effectively cease – and the only route to market would be through the majors. Apart from the implications of reducing our sales options this will diminish competition in the broader fuel market.

5.1.5 Take-up of Biodiesel

In BPL's opinion, the absence of the majors in today's market is driven by two key points;

- a) consistent local supply; and
- b) blending infrastructure requirements;

The majors will initially enter the biodiesel market at levels of B5 or lower to ensure that local supply continuity exists. It would be desired that as this continuity is developed higher blends would be offered to customers.

There is a legitimate element of "chicken and egg" for the majors because of their large potential demand. The biodiesel production capacity needs to be established and proved prior to off-take contracts being developed. Once proven, there are further delays as infrastructure is developed to facilitate biodiesel blends. During this time lag, independents have provided critical support to the Australian biodiesel industry to allow it to operate and grow in the absence of mandates.

Another issue for oil majors, and similarly the independent market, is the requirement for capital expenditure to meet internal investment return criteria, which are linked directly to shareholder value. The volume and economics of biodiesel inclusions at B5 levels are not sufficient, based on a percentage return or dollar threshold level to satisfy business criteria.

Accordingly the return on capital for investment projects and the small volumes, at B5 or under, provide little commercial stimulus to generate blending infrastructure.

By having had access to B20 blends, the independent market have been better able to fund the required infrastructure providing the current route to market. This will cease with a shift to B5.

The risk being that the proposed diesel/biodiesel blend standards will entrench B5 blend levels which will further stagnate distribution of biodiesel.

5.2 Route to Market for Biodiesel and Government Policy

Commonwealth Government policy has played a significant part in determining the way in which diesel/biodiesel blends are distributed in the market place today.

The introduction of the preferred diesel/biodiesel blend standard as is - has the capacity to cap the bulk of sales at B5. This could inadvertently close the key route to market for biodiesel.

This would seem to be a contradiction of the intent of the blend standards and more broadly the stated intent of the Commonwealth in supporting a local biofuels industry. Importantly, it has the potential in restrict consumer choice and by default lessen competition in the fuel market.

The key structural policy elements that have lead to the blend standard having the capacity to influence the market in this way are;

- a) the alteration of the Fuel Tax Bill 2006; and
- b) the poor uptake by the fuel majors under the Biofuels Action Plan.

5.2.1 Fuel Tax Bill 2006 and Fuel Tax (Consequential and Transitional Provisions) Bill 2006

The changes to the Fuel Tax Bill 2006 which impacted on diesel/biodiesel blends, effectively removed any incentive to sell a blend that was not compliant with the Australian Diesel Standard to the transport or off-road industry.

This fundamentally changed the marketing target for the biodiesel industry. Prior to the taxation changes blends of B30 to B50 were targeted, into large commercial customers with captured fleets. These sales would have been made in conjunction with the EOM's and provided significant cost savings to industry.

With this avenue closed the biodiesel industry moved into its current route to market through the independent channels selling blends compliant with the Australian Diesel Standard of up to B20.

This change has resulted in smaller discounts to fuel consumers over a larger diesel market penetration. The changes to the taxation law resulted in the following impact:

- Discounts in the hands of consumers, both private and business, reduces as the blend of biodiesel reduces, for example:
 - a 5cpl discount on biodiesel at B50 translates to a 2cpl discount
 - a 5cpl discount on biodiesel at B20 translates to a 1cpl discount
 - a 5cpl discount on biodiesel at B5 translates to a 0.25cpl discount
- At the same time the biodiesel producer increases their need to distribute biodiesel over a greater volume of diesel. So conservatively for example at 100ML of biodiesel production capacity this:
 - would require 200ML of diesel market access at B50
 - would require 500ML of diesel market access at B20
 - would require 2,000ML of diesel market access at B5 –or approx 13% of the whole Australian diesel market.

Already the Biodiesel Industry has been forced to lower potential discounts to consumers, whilst seeking wider market penetration under these changes to the Fuel Tax Act 2006.

Any changes to cap at B5 via an alternate mechanism, such as the blend standard, will remove any consumer discounts and require biodiesel to be used by the majors due to the level of market penetration required.

5.2.2 Biofuels Action Plan

When the Commonwealth Government set down the biofuels target of 350 ML by 2010, one of the key outcomes expected by the biofuels industry was the development of capacity to distribute these fuels.

Without any legal obligation to this target the results have simply reflected the highlighted hurdles of infrastructure development – rather than the opportunity for it to be a stimulus to the biofuels industry.

The Ethanol Roundtable Meeting on the 23rd of May 2007, to review the performance to date of the Biofuels Action Plan, highlighted that the target set by the fuel majors had fallen well short of the 2006 target based on Renewable Fuels Australia (RFA)

review of its members. RFA estimated that “*less than 18% of the minimum target of 89ML and only 16% of the upper 124ML target*”⁵ was taken up in 2006. With the 100% increase in the 2007 targets (181-251ML) the Biofuels industry was yet again significantly under even the minimum target.

The irony being that extra volume will be recorded in 2008 in line with ethanol mandates introduced by the NSW State Government.

In the same way the ratification of Kyoto has shifted the agenda on climate change into tangible outcomes and targets – the Biofuels Action Plan needs to become more than the token policy that it currently is today.

6. References

Department of the Environment, Heritage, Water and the Arts. Jan 2008. “Setting National Fuel Standards; Proposed Management of Diesel/Biodiesel Blends”

Fuel Quality Standards Act 2000, Division 3 - Approvals

Renewable Fuels of Australia, Ethanol Roundtable Brief – 23rd May 2007

⁵ Ethanol Round Table Paper - RFA