

EXPLANATORY STATEMENT

Fuel Quality Standards Act 2000

Fuel Standard (Automotive Diesel) Amendment Determination 2009 (No. 1)

(Issued by the authority of the Minister for the Environment, Heritage and the Arts)

The *Fuel Quality Standards Act 2000* (the Act) and the *Fuel Quality Standards Regulations 2001* provides the framework for making and enforcing national fuel quality standards.

Section 21 of the Act provides that the Minister may, in writing, determine that specified matters constitute a fuel standard in respect of a specified kind of fuel.

The first standards for automotive diesel – contained in the *Fuel Standard (Automotive Diesel) Determination 2001* (the Automotive Diesel Determination) – commenced on 1 January 2002. A standard for biodiesel – contained in the *Fuel Standard (Biodiesel) Determination 2003* – commenced on 18 September 2003. These standards specify physical and chemical parameters which must be met before these fuels can be supplied for use in Australia.

Although standards exist for automotive diesel and 100 per cent biodiesel, there are currently no standards for blends of the two fuels. There is uncertainty about the impacts on vehicle operability of the use of diesel/biodiesel blends greater than five per cent or B5. As biodiesel blends are not regulated, blends over five per cent are currently being supplied as automotive diesel in the Australian market.

The current Automotive Diesel Determination is inadequate as it does not specify an acceptable level of biodiesel and some test methods referred to in the Automotive Diesel Determination are unable to measure quality correctly when biodiesel is blended. These are designed for analysing the quality of automotive diesel (100 per cent) and the test methods specified do not provide an accurate measurement in the presence of biodiesel.

In addition, in terms of the capacity of the department to assess compliance with the Automotive Diesel Determination, the presence of biodiesel cannot be tested as it is not currently a specified parameter in the standard. As such it is not possible to confirm that the results determined by the testing methods for automotive diesel, that are affected by biodiesel, are accurate or 'false' readings.

The purpose of the *Fuel Standard (Automotive Diesel) Amendment Determination 2009 (No. 1)* (the Amendment Determination) is to provide regulatory coverage and certainty for the practice of blending biodiesel with automotive diesel.

The Amendment Determination will add biodiesel to the parameters to be tested, and specify an upper limit of five per cent. The value of five per cent is generally accepted by vehicle manufacturers and Original Equipment Manufacturers (OEMs) as not requiring modifications of standard diesel engines. These amendments will update the Automotive Diesel Determination to take account of blending practices (by amending cetane and water parameters for blended fuel) and allow confirmation that the fuel supplied does indeed meet the standard specified for automotive diesel. It will also be in line with Australian Government objectives to harmonise with international fuel standards for automotive diesel.

A consequence of the Amendment Determination is that biodiesel suppliers currently adding more than five per cent biodiesel to their blends will need to use the existing approvals process to continue to supply, as the Act does not make any specific provisions for blends. Section 13 of the Act allows the Minister for the Environment, Heritage and the Arts (the Minister) to grant approval to supply fuel that varies from a standard. The technical problems with the automotive diesel standard and biodiesel blends, as outlined above, has rendered the use of the approvals process unsuitable for the management of the supply of higher blends.

The Minister must have regard to the objects of the Act before making a Determination as required by section 21(5). The main object of the Act is to regulate the quality of fuel supplied in Australia in order to:

- (a) reduce the level of pollutants and emissions arising from the use of fuel that may cause environmental and health problems;
- (b) facilitate the adoption of better engine technology and emission control technology; and
- (c) allow the more effective operation of engines.

The Amendment Determination is consistent with meeting the objectives of the Act.

Details of the Amendment Determination are set out in [Attachment A](#).

The Amendment Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Amendment Determination takes effect on the day after it is registered.

Fuel Standard (Automotive Diesel) Amendment Determination 2009 (No. 1)

Section 1 - Name of Determination

This section provides that the name of the determination is the *Fuel Standard (Automotive Diesel) Amendment Determination 2009 (No. 1)*.

Section 2 - Commencement

This section provides that the determination commences on the day after it is registered.

Section 3 - Definitions

This section provides detail, in Schedule 1, on the amendments to the *Fuel Standard (Automotive Diesel) Determination 2001*.

Schedule 1 - Amendments

Item 1 - Section 2A

This item updates and consolidates definitions in the determination including a definition for biodiesel.

Item 2 - Subsection 3 (1), table, item 3

This item removes reference to suspended solids and inserts the relevant unit of measurement for ash content. The testing method for this substance (ASTM D482) does not measure suspended solids and the determination includes an incorrect unit of measurement.

Item 3 - Subsection 3 (1), table, after item 4

This item inserts a new substance - Biodiesel, the amount - 5.0% volume by volume, and date of effect - 1 March 2009.

Item 4 - After subsection 3 (3)

This item inserts a requirement that diesel containing biodiesel must meet a derived cetane number of at least 51.

Item 5 - After subsection 3 (5)

This item inserts a requirement that the biodiesel component of diesel must meet the requirements of the fuel quality standard for biodiesel set out in the *Fuel Standard (Biodiesel) Determination 2003*.

Item 6 - Section 4

This item amends and inserts testing methods requirements in the determination. This item inserts provision that compliance with the standard will be determined by application of testing methods as existing on commencement of the determination. Reference to suspended solids, at item 1, is removed. This item inserts substance or parameter - derived cetane number of diesel that contains biodiesel and testing method - ASTM D6890 at item 4

and substance or parameter - biodiesel and testing method - EN 14078 at item 9.

Item 7 - Subsection 5 (2)

This item omits reference to ASTM International and Institute of Petroleum and inserts a provision that compliance with the standard will be determined by application of testing methods as existing on commencement of the determination.

Item 8 - Subsection 5 (2), table, after item 2

This item inserts a new paragraph (2A) applicable to diesel containing biodiesel, parameter - water, specification - 200 mg/kg maximum and referee test method - ASTM D6304.