

EXPLANATORY STATEMENT

Fuel Quality Standards Act 2000

Fuel Quality Information Standard (Ethanol E85) Determination 2012

(Issued by the authority of the Parliamentary Secretary for Sustainability and Urban Water)

The *Fuel Quality Standards Act 2000* (the Act) and the Fuel Quality Standards Regulations 2001 provide the framework for making and enforcing national fuel quality standards and fuel quality information (i.e. labelling) standards. Section 22A of the Act provides that the Minister may, in writing, determine a fuel quality information standard for a specified supply of a specified kind of fuel.

The purpose of this instrument, the Fuel Quality Information Standard (Ethanol E85) Determination 2012 (the Determination), is to specify the labelling requirements for the sale of E85 fuel sold in Australia.

The Minister has had regard to the objects of the Act before making the Determination, as required by section 22A(5). The objects of the Act are to:

- a) 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; and
 - b) facilitate the adoption of better engine technology and emission control technology; and
 - c) allow the more effective operation of engines; and
- b) ensure that, where appropriate, information about fuel is provided when the fuel is supplied.

This Determination is consistent with meeting object (b) of the Act.

This Determination has been developed following extensive consultation with the Fuel Standards Consultative Committee¹, Federal, State and Territory government agencies, and other stakeholders including representatives of motor vehicle manufacturing, fuel retailers/suppliers, ethanol producers, consumers and environment organisations.

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

This legislative instrument does not engage any of the applicable rights or freedoms. This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Details of the Determination are set out in **Attachment A**. A Regulation Impact Statement describing the likely impacts of the Determination is at **Attachment B**.

¹ Required under section 24A(1)(ba) of the Act. Section 24(A)(4) also requires the Minister to have regard to any recommendations of the Fuel Standards Consultative Committee arising out of the consultation.

This Determination takes effect on 1 November 2012 and must be complied with from that date. The commencement date has been selected to provide fuel retailers and other suppliers with time to undertake the required printing and affixing of labels to comply with the standard.

Fuel Quality Information Standard (Ethanol E85) Determination 2012

Section 1: Name of Determination

This section provides that the name of the determination is the Fuel Quality Information Standard (Ethanol E85) Determination 2012.

Section 2: Commencement

This section provides that the determination commences on 1 November 2012.

Section 3: Definitions

This section provides definitions for terms referred to in the determination. E85 carries the same definition as that in the Fuel Standard (Ethanol E85) Determination 2012, that is a fuel blend consisting of 70–85% ethanol and petrol that meets the requirements of the Fuel Standard (Petrol) Determination 2001. This means that any percentage of ethanol between and including 70 and 85% ethanol may be present in E85.

This Determination will operate independently of the Fuel Quality Information Standard (Ethanol) Determination 2003 (Ethanol labelling standard) which is used for labelling E10 fuel. The ethanol labelling standard sets out the labelling requirements for ethanol blends (i.e. petrol that contains more than 1% ethanol), with the upper limit of ethanol content in the ethanol blend set at 10% by the Fuel Standard (Petrol) Determination 2001.

Section 4: Service stations

This section sets the labelling requirements for E85 provided through service stations. From the definition in section 3, this covers any place where E85 is sold by retail from a fuel pump.

This section sets out the wording that must be clearly displayed on any service station fuel pump dispensing E85. There is a choice of two wording options for complying with the labelling requirements:

- (a) the words 'Contains 70–85% ethanol' and 'Not Petrol or Diesel'; or
- (b) the words 'Contains x% ethanol', where x is a number between 70 and 85%, and 'Not Petrol or Diesel'.

Both options allow suppliers to use their own corporate livery and include additional information if desired.

Section 5: Other retail supply

This section sets out the labelling requirements for E85 supplied other than by retail sale through a service station. This would cover situations such as where businesses purchase E85 in bulk from fuel depots (e.g. in drums).

The supplier has two options for complying with the labelling requirements:

(a) the buyer must be given a document, before the E85 is supplied, that prominently includes the words specified in section 4; or

(b) if the buyer is present when the E85 is supplied, the words specified in section 4 must appear on each container of E85 so that the words can easily be read by the buyer.

Section 6: Supply of E85 to a retailer

This section sets an information standard for suppliers of E85 'up-stream' from the retailer, that is, those who supply the E85 to the retailers. It provides that these suppliers must give the retailer a document that prominently displays the following:

(a) a statement that the E85 contains:

- i. 70–85% ethanol; or
- ii. x% ethanol, where x is a number between 70 and 85; and

(b) a statement that the E85 is the subject of this standard.

This section aims to ensure the retailer is given information to facilitate compliance with the labelling requirements.