**EXPLANATORY STATEMENT**

**Select Legislative Instrument No. 227, 2015**

**Fuel Quality Standards Amendment (Fuel Blends) Regulation 2015**

Issued by Authority of the Minister for the Environment

Subject – *Fuel Quality Standards Act 2000*

*Fuel Quality Standards Amendment (Fuel Blends) Regulation 2015*

The *Fuel Quality Standards Act 2000* (the Act) regulates the quality of fuel supplied in Australia, with a view to reducing the level of pollutants and emissions arising from the use of fuel that may cause environmental and health problems, facilitating the adoption of better engine and emission control technology and allowing the more effective operation of engines.

Section 73 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 21(1) of the Act allows the Minister for the Environment (the Minister) to determine, by legislative instrument, a fuel quality standard in respect of a specified kind of fuel. Under subsection 4(1) of the Act, the meaning of ***fuel*** is given by the *Fuel Quality Standards Regulations 2001* (the Principal Regulations). National fuel quality standards have progressively been introduced for petrol, automotive diesel, biodiesel, autogas and ethanol (E85). Fuel quality information standards have also been made by the Minister under subsection 22A(1) of the Act for ethanol in petrol and ethanol E85. Fuel quality information standards are made where it is considered important for consumers to have access to information about the fuel being supplied.

The development of new engine technologies and the emergence of new liquid transport fuels is increasing demand for the use of mixtures of particular fuels (known as fuel blends). In Australia, the two major fuel blends are ethanol/petrol blends and diesel/biodiesel blends. Fuel blends are not currently defined as a ***fuel*** in subegulation 3(2) of the Principal Regulations. This means that, in general, fuel quality standards and fuel quality information standards cannot currently be made for fuel blends.

The following fuel blends are currently supplied in Australia:

* E10 (petrol with up to 10% ethanol)
* B5 (automotive diesel with up to 5% biodiesel)
* E85 (petrol and up to 85% ethanol)
* B20 (automotive diesel with from 6% and up to 20% biodiesel)

In the cases of E10 and B5, specifications for these blends are incorporated into the fuel quality standard for the relevant base fuel (i.e. petrol and automotive diesel respectively). The ethanol (E85) standard is treated as a standard for ‘ethanol’ which is listed as a ***fuel*** in paragraph 3(2)(h). These fuel blends are considered to share the essential characteristics of the base fuel and are therefore treated as equivalent to the base fuel.

The B20 fuel blend has characteristics that differ from automotive diesel. This fuel blend is currently regulated via the section 13 approval process, where particular suppliers are granted approval to vary the automotive diesel standard in order to supply B20 under specific conditions for a specified period of time.

The *Fuel Quality Standards Amendment (Fuel Blends) Regulation 2015* (the Regulation) amends the definition of ***fuel*** in subregulation 3(2) of the Principal Regulations to extend to fuel blends. This clarifies that fuel blends are covered by the Act and will allow standards to be made for fuel blends, such as B20, in the future. The Regulation includes fuel blends which are: a mixture of: petrol and ethanol of which more than 50% is petrol; a mixture of automotive diesel and biodiesel (within the meaning of paragraph 3(2)(g) of the Principal Regulations which defines biodiesel) of which more than 50% is automotive diesel; a mixture of biodiesel (within the meaning of paragraph 3(2)(g) of the Principal Regulations) and automotive diesel of which more than 50% is biodiesel; and a mixture of ethanol and petrol of which more than 50% is ethanol.

The Regulation provides the Minister with the ability to made fuel quality standards and fuel quality information standards for fuel blends.

Details of the Regulation are set out in the Attachment.

The Fuel Standards Consultative Committee (the Committee) was consulted on the Regulation. The Committee’s membership includes representatives from the Commonwealth, state and territory governments, fuel producers and importers, motor vehicle manufacturers, non-government bodies and consumers.

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

The proposed Regulation commences on the day after registration on the Federal Register of Legislative Instruments.

**Statement of Compatibility with Human Rights**

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Fuel Quality Standards Amendment (Fuel Blends) Regulation 2015**

**Overview of the Legislative Instrument**

The *Fuel Quality Standards Amendment (Fuel Blends) Regulation 2015* (the Regulation) amends the *Fuel Quality Standards Regulations 2001* (the Principal Regulations) to include mixtures (or blends) of particular fuels to be classified as ‘fuels’ under the Act. This will enable fuel quality standards and fuel quality information standards to be made for particular fuel blends under the Act.

**Human rights implications**

The Regulation has been assessed against the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011.* The Regulation does not engage any of the applicable rights or freedoms.

**Conclusion**

The Regulation is compatible with Australia’s human rights obligations.

**The Hon Greg Hunt MP**

**Minister for the Environment**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Ozone Protection and Synthetic Greenhouse Gas Management Amendment
(SGG for Manufacture) Regulation 2013**

**Overview of the Legislative Instrument**

The *Ozone Protection and Synthetic Greenhouse Gas Management Amendment (SGG for Manufacture) Regulation 2013* (the Regulation) amends the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* to prescribe, for the purposes of paragraph 13(1A)(b) of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*, circumstances in which a controlled substances licence will not be required where Synthetic Greenhouse Gases (SGGs) are used in a manufacturing process that does not result in the emission of the SGGs. As a consequence, a person importing or manufacturing SGGs for use in these circumstances would not be liable to pay the levies imposed under the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* and the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995*.

**Human rights implications**

The Regulation has been assessed against the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011.* The Regulation does not engage any of the applicable rights or freedoms.

**Conclusion**

The Regulation is compatible with Australia’s human rights obligations.

**The Hon Amanda Rishworth MP,**

**Parliamentary Secretary for Sustainability and Urban Water**

**ATTACHMENT**

**Details of the *Fuel Quality Standards Amendment (Fuel Blends) Regulation 2015***

**Section 1 – Name of Regulation**

This section provides that the title of the Regulation is the *Fuel Quality Standards Amendment (Fuel Blends) Regulation 2015* (the Regulation).

**Section 2 – Commencement**

This section provides that the Regulation commences on the day after the Regulation is registered on the Federal Register of Legislative Instruments.

**Section 3 – Authority**

This section provides that the Regulation is made under the *Fuel Quality Standards Act 2000* (the Act)*.*

**Section 4 – Schedule(s)**

This section provides that each instrument specified in a Schedule to the Regulation is amended or repealed as set out in the Schedule concerned, and any other item in a Schedule to the Regulation has effect according to its terms.

**Schedule 1 – Amendments**

Item 1 – After paragraph 3(2)(a)

This item inserts paragraph 3(2)(aa) into the definition of ***fuel*** under subregulation 3(2) of the *Fuel Quality Standards Regulations 2001* (the Principal Regulations). Paragraph 3(2)(aa) extends the definition of ***fuel*** to a fuel blend which is a mixture of petrol and ethanol of which more than 50% is petrol. The development of new engine technologies and the emergence of new liquid transport fuels are leading to increased demand for fuel blends.

This amendment enables the Minister for the Environment to make fuel quality standards under subsection 21(1) of the Act and fuel quality information standards under subsection 22A(1) of the Act for this fuel blend.

Fuel quality standards set limits on specific characteristics of a particular kind of fuel so as to reduce direct impact on the environment and to enable efficient engine operation. Standards establish content levels for particular components and upper and/or lower bounds for attributes of the fuel. Standards also specify the test procedures to be used in determining a particular characteristic. Where a fuel is the subject of a standard, it is an offence to supply that fuel if it does not comply with the standard.

Fuel quality information standards set out the labelling and documentation requirements for the supply of the fuel to which the standard applies. Fuel quality information standards ensure consumers have access to information about the composition of the fuel supplied. These standards are generally made where there may be vehicle compatibility issues associated with use of the fuel.

**Item 2 – After paragraph 3(2)(b)**

This item inserts paragraph 3(2)(ba) into the definition of ***fuel*** under subregulation 3(2) of the Principal Regulations. Paragraph 3(2)(ba) extends the definition of ***fuel*** to a fuel blend which is a mixture of automotive diesel and biodiesel (within the meaning of paragraph 3(2)(g) of the Principal Regulations which defines ***biodiesel***) of which more than 50% is automotive diesel.

This amendment also enables the Minister to make fuel quality standards under subsection 21(1) of the Act and fuel quality information standards under subsection 22A(1) of the Act for this fuel blend.

**Item 3 – After paragraph 3(2)(g)**

This item inserts paragraph 3(2)(ga) into the definition of ***fuel*** under subregulation 3(2) of the Principal Regulations. Paragraph 3(2)(ga) extends the definition of ***fuel*** to a fuel blend which is a mixture of biodiesel (within the meaning of paragraph 3(2)(g) of the Principal Regulations) and automotive diesel of which more than 50% is biodiesel.

This amendment enables the Minister to make fuel quality standards under subsection 21(1) of the Act and fuel quality information standards under subsection 22A(1) of the Act for this fuel blend.

**Item 4 – After paragraph 3(2)(h)**

This item inserts paragraph 3(2)(ha) into the definition of ***fuel*** under subregulation 3(2) of the Principal Regulations. Paragraph 3(2)(ha) extends the definition of ***fuel*** to a fuel blend which is a mixture of ethanol and petrol of which more than 50% is ethanol.

This amendment enables the Minister to make fuel quality standards under subsection 21(1) of the Act and fuel quality information standards under subsection 22A(1) of the Act for this fuel blend.

**Item 5 – Paragraph 3(2)(i)**

This item amends paragraph 3(2)(i) of the Principal Regulations by removing the reference to current paragraph 2(h) of the Principal Regulations and inserting a reference to paragraph 2(ha) of the Regulation. This is aimed at ensuring any substance used as a substitute for any of the fuel blends would be treated as a ***fuel*** for the purposes of the Act.

**Item 6 – Subparagraph 3(2)(j)(i)**

This item amends subparagraph 3(2)(j)(i) of the Principal Regulations by removing the reference to paragraph 2(h) of the Principal Regulations and inserting a reference to paragraph 2(ha) of the Regulation. This is aimed at ensuring any substance supplied or represented as any of the fuel blends will be treated as a ***fuel*** for the purposes of the Act.