

EXPLANATORY STATEMENT

Fuel Quality Standards Act 2000

Fuel Quality Standards (Ethanol E85) Information Standard 2019

(Issued by the authority of the Minister for Energy and Emissions Reduction)

Purpose and operation

The *Fuel Quality Standards Act 2000* (Cth) (the Act) provides the legislative framework for regulating the quality of fuel supplied in Australia. The objectives of the Act are to reduce the level of pollutants and emissions arising from the use of fuel that may cause environmental and health problems; facilitate the adoption of better engine and emission control technology; allow the more effective operation of engines and ensure that, where appropriate, information about fuel is provided when the fuel is supplied.

Section 22A of the Act provides that the Minister may, by legislative instrument, determine a fuel quality information standard for a specified supply of a specified kind of fuel.

The *Fuel Quality Standards (Ethanol E85) Information Standard 2019* (the Information Standard) specifies the labelling requirements for ethanol E85 fuel supplied in Australia.

The purpose of the Information Standard is to repeal and replace the sunseting *Fuel Quality Information Standard (Ethanol E85) Determination 2012*, and to provide information about the labelling requirements of ethanol E85 supplied in Australia.

The changes in this updated Information Standard include some section headings and specifications for labelling requirements which have been updated to improve consistency and clarity as appropriate.

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

Background

In October 2015, the Australian Government established the Ministerial Forum on Vehicle Emissions to coordinate a whole-of-government approach to reducing motor vehicle emissions. Part of this work is a measure to improve fuel quality standards which will assist in achieving better environmental, human health and engine operability outcomes.

Consultation

This Information Standard has been developed following extensive public consultation in relation to a range of policy options to improve Australia's fuel quality. Two rounds of public consultation were conducted, as well as targeted consultation with key industry stakeholders to finalise options for the legislative instruments that prescribe fuel standards. The stakeholders included fuel producers, fuel importers, vehicle manufacturers and automobile

associations. Targeted consultation with key testing laboratories occurred to ensure the proposed changes reflected the most up-to-date testing methods for the relevant parameter.

Under the Act, before making a fuel standard, the Minister must also consult the Fuel Standards Consultative Committee. The committee provided advice on the exposure draft of the Information Standard.

Regulation impact analysis

The Office of Best Practice Regulation (OBPR) was consulted in relation to the remaking of this legislative instruments under the Act. The *Better fuel for cleaner air regulation impact statement* was prepared to assess the impacts on industry, the community and the environment of various policy options to improve fuel standards. The OBPR advised that the *Better fuel for cleaner air regulation impact statement* is compliant with the Government's requirements and is consistent with best practice (OBPR ID 20699).

The *Better fuel for cleaner air regulation impact statement* is available under the *Supporting Material* tab of the www.legislation.gov.au page for this instrument.

Details of the *Fuel Quality Standards (Ethanol E85) Information Standard 2019*

Section 1 – Name of instrument

This section specifies that the name of the Determination is the *Fuel Quality Standards (Ethanol E85) Information Standard 2019* (the Information Standard).

Section 2 – Commencement

This section provides that the instrument commences on 1 October 2019.

Section 3 – Authority

This section sets out the provision of the *Fuel Quality Standards Act 2000* under which the Information Standard is made.

Section 4 – Schedules

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

Section 5 – Definitions

This section provides definitions for terms referred to in the Information Standard. E85 carries the same definition as that in the *Fuel Quality Standards (Ethanol E85) Determination 2019*, that is a fuel blend consisting of 70–85% ethanol and petrol that meets the requirements of the *Fuel Quality Standards (Petrol) Determination 2019*. This means that any percentage of ethanol between and including 70 and 85% ethanol may be present in E85.

This Information Standard will operate independently of the *Fuel Quality Standards (Ethanol) Information Standard 2019* (ethanol information standard) which applies to what is commonly known as E10 fuel. The ethanol information 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 Quality Standards (Petrol) Determination 2019*.

Section 6 – Supply of E85 from service stations

This section sets the labelling requirements for E85 provided through service stations. From the definition in section 5, 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 the percentage of ethanol in the fuel, being a number equal to or more than 70 but not more than 85 and is no less than the percentage of ethanol in the ethanol blend, and ‘Not petrol or diesel’.

The above does not preclude suppliers from using their own corporate livery and including additional information if desired.

Section 7 – Other retail supply of E85

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

The supplier of E85 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 6(2)(a) or (b); or
- (b) if the buyer is present when the E85 is supplied, the words specified in section 6(2)(a) or (b) must appear on each container of E85 so that the words can easily be read by the buyer.

Section 8 – Supply of E85 to retailers

This section specifies that suppliers of E85 who supply the E85 to a retailer must give the retailer a document that prominently displays the following:

- (a) a statement that the E85 contains:
 - i. 70 to 85% ethanol; or

ii. x% ethanol, where x is the percentage of ethanol in the fuel, being a number equal to or more than 70 but not more than 85 and is no less than the percentage of ethanol in the ethanol blend; 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.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Fuel Quality Standards (Ethanol E85) Information Standard 2019

This Information Standard 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*.

Overview of the legislative instrument

The *Fuel Quality Standards (Ethanol E85) Information Standard 2019* sets out the labelling requirements for ethanol E85 used in Australia.

Human rights implications

This Information Standard does not engage any of the applicable rights or freedoms.

Conclusion

This Information Standard is compatible with human rights as it does not raise any human rights issues.