

EXPLANATORY STATEMENT

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

Fuel Quality Standards Act 2000

Fuel Quality Standards (Petrol) Amendment Determination 2021

Background

The *Fuel Quality Standards Act 2000* (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.

The *Fuel Quality Standards (Petrol) Determination 2019* (the 2019 Determination) was made under section 21 of the Act. Section 21 of the Act provides that the Minister may determine, by legislative instrument, that specified matters constitute a fuel standard in respect of a specified kind of fuel.

The 2019 Determination was made on 18 March 2019 to:

- revoke and replace the sunseting *Fuel Standard (Petrol) Determination 2001*;
- set out the parameters and testing methods for petrol used in Australia; and
- provide certainty for the quality of petrol supplied in Australia.

Purpose and operation

The purpose of the *Fuel Quality Standards (Petrol) Amendment Determination 2021* (the 2021 Determination) is to amend the 2019 Determination to (i) correct spelling errors in the 2019 Determination, and (ii) align the limit for water in ethanol with the Government's policy intent for the 2019 Determination. The policy intention in making the 2019 Determination was to adjust the unit of measurement for water content in ethanol from volume by volume (expressed as v/v) to mass by mass (m/m), while retaining the equivalent value and taking into consideration the relative density of water to ethanol. The 2021 Determination amends the value to reflect this intent.

The 2021 Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Consultation

The 2019 Determination was 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.

The amendments to the spelling of phosphorus and the water parameters align the text of the 2019 Determination with the intent of the Government's policy and these two changes were the subject of the initial consultation process described above.

Under the Act, before making a fuel standard, the Minister must also consult the Fuel Standards Consultative Committee (the Committee) (section 24A). The Committee provided advice on the exposure draft of the 2021 Determination.

Regulation impact analysis

The regulatory impacts of these amendments to the 2019 Determination were assessed as minor and not requiring a Regulation Impact Statement by the Office of Best Practice Regulation (OBPR ID 20699).

Details on the *Fuel Quality Standards (Petrol) Amendment Determination 2021*

Section 1 – Name of instrument

This section specifies that the name of the Determination is the *Fuel Quality Standards (Petrol) Amendment Determination 2021* (the 2021 Determination).

Section 2 – Commencement

This section provides that the Determination commences the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

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

Section 4 – Schedules

This section is a machinery clause that allows the Schedule to operate according to its terms.

Schedule 1 – Amendments

Item 1: Subsection 5(2) (item 15 of the table in section 5(2))

This item amends the reference to the phosphorus parameter in the fuel standard for petrol. In the 2019 Determination, the adjective “Phosphorous” was incorrectly used. The intent of the 2019 Determination was to refer to the noun “Phosphorus”. This amendment aligns the 2019 Determination with the Government’s policy intention.

Item 2: Subsection 5(5)

This item amends the reference to phosphorus in subsection 5(5) of the 2019 Determination. In the 2019 Determination, the adjective “phosphorous” was incorrectly used. The intent of the 2019 Determination was to refer to the noun “phosphorus”. This amendment aligns the 2019 Determination with the Government’s policy intention.

Item 3: Subsection 6(2) (item 12 of the table)

This item changes the maximum water parameter for ethanol. The 2019 Determination provided that the water parameter for ethanol was 1.0% m/m, however the policy intent was for the parameter to be 1.25% m/m (equivalent to 1.0% v/v). This item changes the water parameter for ethanol to 1.25% m/m, consistent with the Government’s original policy intent.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Fuel Quality Standards (Petrol) Amendment Determination 2021

This Determination 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 purpose of the *Fuel Quality Standards (Petrol) Determination 2021* (the 2021 Determination) is to amend *Fuel Quality Standards (Petrol) Determination 2019* (the 2019 Determination). The 2019 Determination sets out the parameters and testing methods for petrol and ethanol in petrol used in Australia. The 2021 Determination makes three amendments to the 2019 Determination to align the 2019 Determination with the Government's original policy intent.

Human rights implications

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

Conclusion

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

The Hon Angus Taylor MP

Minister for Energy and Emissions Reduction