

## **EXPLANATORY STATEMENT**

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

*Fuel Quality Standards Act 2000*

*Fuel Quality Standards Amendment (Fees) Regulations 2021*

### **Purpose and Operation**

The *Fuel Quality Standards Act 2000* (the Act) provides the legislative framework for regulating the quality of fuel supplied in Australia.

The *Fuel Quality Standards Regulations 2019* (the Principal Regulations) provide the administrative detail for a variety of matters dealt with under the Act, including application processes for an approval to vary a fuel standard.

The purpose of the *Fuel Quality Standards Amendment (Fees) Regulations 2021* (the Amendment Regulations) is to ensure that applicants for a variation to a fuel standard made under section 13 of the Act no longer pay application fees. The amendment is part of a broader package of measures announced in the 2020-21 Budget to improve Australia's fuel security.

Under section 13 of the Act, the Minister has the authority to approve a variation to a fuel standard. The Minister can approve a variation to a fuel standard after an application to do so is received, provided the application is made in accordance with the Principal Regulations (section 14(1) of the Act). Section 14(2) of the Act provides that an application must be accompanied by the application fee if any is prescribed by the Principal Regulations. Regulation 9 of the Principal Regulations prescribes a flat application fee of \$5,944.

The flat application fee has a disproportionate administrative and financial impact on small businesses while being of relatively little consequence for large multinational companies. To resolve these disproportionate impacts, the Amendment Regulations remove the application fee prescribed by regulation 9 of the Principal Regulations. Doing so minimises the administrative burden of either paying the application fee, or developing a business case to support waiving the application fee.

### **Authority**

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 or carrying out or giving effect to the Act.

### **Consultation**

The Amendment Regulations were developed following extensive stakeholder feedback relating to the administrative and cost impost of the application fee structure. The financial

burden of the application fees was raised by small fuel suppliers, which are often family businesses, as being excessive, time-consuming, and overly complicated to seek to reduce.

### **Regulatory Impact**

The regulatory impact of this amendment was assessed as minor and requiring a short form Regulation Impact Statement which was completed by the Office of Best Practice Regulation (OBPR ID 26199).

## **Details of the Fuel Quality Standards Amendment (Fees) Regulations 2021**

### **Section 1 – Name of Instrument**

This section specifies the name of the Regulations as the *Fuel Quality Standards Amendment (Fees) Regulations 2021* (the Amendment Regulations).

### **Section 2 – Commencement**

This section provides that the Amendment Regulations commence on 1 July 2021.

### **Section 3 – Authority**

This section sets out the provision of the *Fuel Quality Standards Act 2000* under which the Amendment Regulations are made.

### **Section 4 – Schedules**

This section is a machinery clause that enables the Schedule to the Amendment Regulations to operate according to its terms.

### **Schedule 1 – Amendments**

#### **Item 1 – Section 9, 10 and 11**

This item repeals regulations 9, 10 and 11 of the *Fuel Quality Standards Regulations 2019* (the Principal Regulations). This item repeals the requirement to pay the \$5,944 application fee accompanying an application for an approval to vary a fuel standard, set out in regulation 9. Consequently, the item also repeals regulations 10 and 11, which provide a processes for an application fee exemption or reduction, and for an application fee refund respectively. These processes are no longer required as no application fee is payable.

#### **Item 2 – In the appropriate position in Part 8**

This item provides a description on how to process application fees made before the commencement date. This ensures the obligations on applicants are not altered retrospectively.

New regulation 57 contemplates the treatment of application fees made in respect of applications to vary a fuel standard made before the commencement date of the Amendment Regulations. New regulation 57 states that despite the repeal of regulations 9, 10 and 11 of the Principal Regulations by item 1 of the Amendment Regulations, regulations 9, 10 and 11 as in force immediately before 1 July 2021 will continue to apply in relation to applications made before 1 July 2021, as if the repeal had not happened.

## **Statement of Compatibility with Human Rights**

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

*Fuel Quality Standards Amendment (Fees) Regulations 2021*

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*.

### **Overview of the Legislative Instrument**

The *Fuel Quality Standards Amendment (Fees) Regulations 2021* (the Amendment Regulations) are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Regulations amend the *Fuel Quality Standards Regulations 2019* (the Principal Regulations) to remove fees for applications to vary fuel quality standards made under section 13 of the *Fuel Quality Standards Act 2000*. The Amendment Regulations also amend the Principal Regulations, by removing regulations related to waiving, reducing, and refunding the application fee, as these are no longer required.

### **Human rights implications**

The Amendment Regulations do not engage any of the applicable rights or freedoms.

### **Conclusion**

The Amendment Regulations are compatible with human rights as they does not raise any human rights issues.

**The Hon Angus Taylor MP**

**Minister for Energy and Emissions Reduction**