

Product Stewardship (Oil) Regulations 2000 2000 No. 199

EXPLANATORY STATEMENT

Statutory Rules 2000 No. 199

Issued by the Authority of the Minister for the Environment and Heritage

Product Stewardship (Oil) Act 2000

Product Stewardship (Oil) Regulations 2000

The *Product Stewardship (Oil) Act 2000* (the Act) provides for the payment of grants, known as product stewardship benefits, to eligible recyclers of waste oil for waste oil that they recycle and sell in Australia [Sections 8 and 9].

Section 37 of the Act allows the Governor-General to make regulations prescribing all 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.

In addition subsection 10(1) provides that, the amount of benefits claimable is to be specified in the Regulations. Under subsection 10(2) of the Act, matters that may be taken into account under the Regulations include:

- * the volume of recycled oil product sold or consumed;
- * the quality of the recycled oil; and
- * the use, or intended use, for the recycled oil.

Subsection 10(3) allows the Regulations to specify that no benefit is payable for a recycled oil product that is to undergo further recycling and that the amount of benefit for a particular product may be a nil amount, ie zero. Subsection 10(4) states that before the Governor-General makes a regulation under 10(1), the Minister for the Environment and Heritage must take into consideration the total amount that is estimated will be collected under the relevant items in the Customs Tariff *Act 1995* and the *Excise Tariff Act 1921*; and any relevant environmental matters relating to the recycling of oils. Subsection 10(4) also allows the Minister to take into consideration any relevant recommendation made by the Oil Stewardship Advisory Council.

The purpose of the Regulations is to prescribe the categories of eligible products, the rate of benefits claimable for such products, and in one instance, the required quality of the product.

The Regulations prescribe a benefit table, the items of which are arranged in a descending hierarchy. This hierarchy broadly reflects the recycling effort and investment required to produce products of better quality with improved environmental outcomes. The proposed categories and benefit rates are founded using the principle that benefits should only be paid where they might serve as an incentive for increased recycling activity. This has been given precedence over other factors. The hierarchy is designed to encourage the increased recycling of waste oil and not to simply reward current good practice or provide industry assistance. Benefit rates in the table are specified in cents per litre.

Consistent with section 10(3) of the Act, the Regulations also provide that no benefit is payable for oil that is to undergo further recycling. This is to eliminate rorting of benefits by continuous

or circular recycling with benefits being paid repeatedly on the same litre of oil. It also simplifies administrative and compliance processes associated with benefit claims.

The Regulations will commence on the day on which section 10 of the Act commences. That day is 1 January 2001.

Details of the Regulations are set out in the Attachment.

ATTACHMENT

Details of the Product Stewardship (Oil) Regulations 2000

Regulation 1 provides that the name of the regulations is the Product Stewardship (Oil) Regulations 2000.

Regulation 2 provides for the regulations to commence on 1 January 2001.

Regulation 3 defines that the Act referred to in the regulations is the *Product Stewardship (Oil) Act 2000* and that the 'EPA' mentioned in Schedule 1 means the Environment Protection Agency of the United States of America.

Regulation 4(1) defines the categories (Items 1 to 7) of recycled oil products eligible for benefits and the amounts that may be claimed for each category. These are listed in table form.

Details of the Table of Benefits in Regulation 4(1)

The regulations prescribe *seven* categories of waste oil products that may receive benefits. The categories (items) are designed so that they encompass known current and likely future desirable uses of waste oil.

Item 1 prescribes a category for oil subject to the highest level of processing. It provides the maximum reward for the highest quality product - that is, a non-carcinogenic re-refined base-oil suitable to be made in to engine lubricant, transformer and hydraulic oil. It must comply with the same health, safety and environment standards expected of similar 'virgin' products. The requirements that need to be met to demonstrate that a product meets those standards are prescribed in the **Schedule 1**, and the verification procedures in **Regulations 4(3) and 4(4)**. These standards are designed to ensure that the products meet the same standards for carcinogenic compounds as those demanded of lubricants refined from nonwaste oil stocks. This standard will greatly assist market acceptance of re-refined lubricant by consumers.

Item 2 prescribes a category of 'other' re-refined base-oils that do not meet the health, safety and environment criteria required for item 1. Typically such oils are used for applications such as chain-saw bar-lubricants and as ingredients in the manufacture of other products such as plastics.

Item 3 prescribes a category for diesel fuels manufactured from waste oil. To qualify for this category a product must be filtered, de-watered, de-mineralised and thermally cracked. This definition is consistent with others used under Excise Tariff legislation to define diesel fuels.

Item 4 prescribes a category for diesel extenders made from waste oil. Diesel extenders must be filtered, de-watered and de-mineralised.

Item 5 prescribes a category for high-grade industrial burning oils. These must be filtered, de-watered and de-mineralised.

Item 6 prescribes a category for low-grade industrial burning oils. These must be filtered and dewatered.

Item 7 prescribes a category of industrial process oils and lubricants, including reprocessed or filtered, but not re-refined, hydraulic and transformer oils. Currently, where such oils are recoverable they are already being recycled using relatively simple processes that are analogous

to the operation of an oil filter in an engine. This recycling constitutes good business practice. Consequently, such recycling will not receive a benefit.

Regulation 4(2) prescribes that no benefit is payable for oil that is to undergo further recycling.

Regulations 4(3) and 4(4) prescribe the verification processes and authorities to be used to demonstrate compliance with the prescribed health, safety and environment criteria required for item 1 of the benefits table [Regulation 4(1)]. These regulations are necessary to ensure that all verifications are conducted by independent, reputable and credible authorities.

Schedule 1 prescribes the health, safety and environment criteria that a product eligible to be included under in item 1 of the benefits table [Regulation 4(1)] must meet.

Details of Schedule 1

Item 1 prescribes the methodology and criteria to be used to test the carcinogenic properties of a re-refined base-oil. This is a standard, internationally recognised and accepted test procedure promulgated by the American Society for Testing and Materials.

Item 2 prescribes the methodology and criteria to be used to test for the presence of carcinogenic Polyaromatic Hydrocarbons (PAHs) in re-refined base oil. These compounds can be created by combustion processes in engines. This is a standard, internationally recognised and accepted test procedure promulgated by the Environment Protection Agency of the United States of America.

Item 3 prescribes the methodology and criteria to be used to test for the presence of carcinogenic Polychlorinated biphenyls (PCBs) in re-refined base-oil. This is a standard, internationally recognised and accepted test procedure promulgated by the Environment Protection Agency of the United States of America.

Item 4 prescribes the methodology and criteria to be used to test for the presence of carcinogenic Polychlorinated dibenzo-p-dioxins (PCDDs or dioxins) in re-refined baseoil. These compounds can be created by combustion processes in engines. This is a standard, internationally recognised and accepted test procedure promulgated by the Environment Protection Agency of the United States of America.

Item 5 prescribes the methodology and criteria to be used to test for the total acid number of re-refined base-oil. Total acid number is a good surrogate for the stability of the oil. Stability of the oil is essential to meeting health, safety and environment standards. This is a standard, internationally recognised and accepted test procedure promulgated by the American Society for Testing and Materials.

Item 6 prescribes that the re-refined base-oil must be clear and bright in appearance. Oils that are not clear and bright are likely to contain compounds that compromise health, safety and environment standards.