

Product Stewardship (Oil) Amendment Regulations 2000 (No. 1) 2000 No. 353

EXPLANATORY STATEMENT

Statutory Rules 2000 No. 353

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

Product Stewardship (Oil) Act 2000

Product Stewardship (Oil) Amendment Regulations 2000 (No. 1)

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 appropriate waste oil products recycled and sold in Australia [Sections 9]. The Sections of the Act pertaining to the payment of benefits come into effect on 1 January 2001.

Section 37 of the Act provides for 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.

Under Category 1 of Regulation 4 of the *Product Stewardship (Oil) Regulations 2000* (the Principal Regulations), in order to be eligible for benefits, waste oil products must meet specific prescribed standards. Category 1 provides the highest level of benefits as an incentive for recyclers to invest, equip and eventually fully re-refine recycled waste oil into 'good as new' lubricants.

The purpose of the Regulations is to amend the Principal Regulations to clarify and reinforce the criteria for oil recyclers claiming benefits under Category 1 of Regulation 4 (re-refined base oils), and to prevent confusion in the identification of products in Category 3 of Regulation 4 (diesel fuels). The amendments take the form of 4 changes, which do not alter existing benefit rates for recycled products or change existing product specifications.

Firstly, the amendments clarify the sources of the mandatory toxicity tests for Category 1 and provide more durable references in circumstances of changes by the Environmental Protection Agency of the United States of America to the public presentation and access arrangements for these tests. The tests specify a health, safety and environment standard for re-refined lubricants that is comparable with the current requirements for virgin products (ie a basic requirement to produce a non-carcinogenic product). The amendments will make minor changes to the references to those tests in the Schedule to Category 1 of Regulation 4 and specify the bibliographic source of the tests.

Secondly, the regulations aim to reduce the potential for rorting product stewardship benefits in Category 1 by tightening the testing process. The amendments ensure that claims for Category 1 benefits are only paid for oil products that are certified as a 'true' sample taken from the production process that generates the oil for which the benefit is claimed. This will serve to discourage rorting of the benefits through claims based on waste oil products that are not what they purport to be.

Thirdly, the amendments enhance the requirements for 'accreditation bodies' (authorised to carry out testing of Category 1 products) to ensure that they are consistent with the latest general Commonwealth policy in this area.

In addition to the above amendments relating to Category 1 claims, a final amendment clarifies the meaning of *diesel* in the Principal Regulations. The amendments make minor changes to the description for the benefit category for diesel under item 3 of Regulation 4(1) to ensure the identification of diesel fuels is consistent between the Act (and regulations) and the *Excise Act 1921* (and regulations).

The Regulations commence on 1 January 2001.

Details of the Regulations are set out in the Attachment.

ATTACHMENT

Details of the *Product Stewardship (Oil) Amendment Regulations 2000 (No 1)*.

Regulation 1 provides that the name of the regulations is the *Product Stewardship (Oil) Amendment Regulations 2000 (No. 1)*.

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

Regulation 3 provides that Schedule 1 of the *Product Stewardship (Oil) Amendment Regulations 2000 (No. 1)* amends the *Product Stewardship (Oil) Regulations 2000*.

Schedule 1[1] inserts a definition of *EPA test* which refers to the bibliographic source for the clinical tests that a re-refined oil product must meet to be eligible for a benefit, after the definition of *EPA* in Regulation 3 of the *Product Stewardship (Oil) Regulations 2000*.

Schedule 1[2] replaces the former description of diesel fuels under item 3 of Subregulation 4(1) - 'Diesel fuels (filtered, de-watered, de-mineralised and thermally cracked)' - with a new description of 'Diesel fuels to which the *Excise Tariff Act 1921* applies'. This ensures consistency in the identification of diesel fuels for the purposes of product stewardship benefits and the payment of excise.

Schedule 1[3] revises the requirements of an accreditation body, contained in Subregulation 4(4), to reflect the latest Commonwealth policy. That is, the accreditation body must:

- * have a mutual recognition agreement with the National Association of Testing Authorities, Australia; and
- * comply with *ISO/IEC Guide 58 Calibration and testing laboratory accreditation systems General requirements for operation and recognition*, first edition, 1993, published by the International Organization for Standardization, Geneva.

Schedule 1[4] inserts a new Regulation 5 in the *Product Stewardship (Oil) Regulations 2000*, referring to paragraph 3 (a), that a sample may only be tested for verification, if a person accredited by the National Association of Testing Authorities, Australia certifies that:

- * the sample is representative of a production run of the product; and
- * the sample was not tampered with after collection and before testing. This limits the potential for fraud during the sampling process and helps to ensure that benefits are only paid on products that meet the prescribed standards.

Schedule 1[5]-[7] removes the letter "A" from the prefixes "SWA" in 3 US EPA test references in Schedule 1 of the *Product Stewardship (Oil) Regulations 2000*:

- * SWA-846 8275A will be replaced with SW-846 8275A;
- * SWA-846 8082 will be replaced with SW-846 8082; and
- * SWA-846 8290 will be replaced with SW-846 8290.