

EXPLANATORY STATEMENT

ISSUED BY AUTHORITY OF THE MINISTER FOR ENVIRONMENT AND
HERITAGE

Select Legislative Instrument 2005 No. 4

Product Stewardship (Oil) Act 2000

Product Stewardship (Oil) Amendment Regulations 2005 (No. 1)

Section 37 of the *Product Stewardship (Oil) Act 2000* (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 for carrying out or giving effect to the Act.

The Act aims to reduce adverse environmental impacts of waste oil by encouraging increased collection and recycling of waste oils. This aim is achieved by providing for payment of product stewardship benefits to eligible recyclers of waste oil. Benefits are paid on a per litre basis for appropriate waste oil products recycled and sold or used in Australia. The cost of benefits is offset by the imposition of a levy, currently 5.449 cents per litre, on new or re-refined oils and lubricants produced in or imported into Australia.

The *Product Stewardship (Oil) Regulations 2000* (the Principal Regulations) specify benefit payments for nine items. Items 1 to 7 of the benefit table are arranged in a descending hierarchy broadly reflecting the recycling effort and investment required to produce products of better quality with improved environmental outcomes. The 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. Item 8 exempts certain 'dual use' oils from the product stewardship levy. Item 9 provides benefits to offset additional costs incurred by the recycling industry as a result of the removal of excise remissions. Benefit rates in the table are specified in cents per litre.

The highest level benefits are provided for 're-refined base oil' under items 1 and 2. Item 1 provides the maximum reward for the highest quality product – that is, a non-carcinogenic re-refined base-oil suitable to be made into engine lubricant, transformer or hydraulic oil. It must comply with the same health, safety and environment standards expected of similar 'virgin' products. 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.

The purpose of the amendment to the Principal Regulations is to clarify the meaning of 're-refined base oil' under items 1 and 2, by providing clear definitions for 'base oil' and specifying the eligible processes for 're-refined oil'. The amendments also contain flexibility provisions, enabling the Minister for the Environment and Heritage to approve equivalent technologies as re-refining processes for the purposes of the Principal Regulations. All applicants for item 1 or item 2 benefits will be required to use re-refining processes as defined within the regulations, or processes recognised by the Minister, and to meet the definition of 'base oil'. Item 1 applicants are also required to meet Schedule 1 criteria.

These amendments will reinforce the hierarchy of benefits and the aim of improved environmental outcomes, simplify the administration of the Principal Regulations, and provide clarity for industry beneficiaries.

Base oil is defined as a petroleum-based oil from which all contaminants and additives have been removed. The base oil is then able to be blended with other base oils or additives to produce a marketable product. To make an oil suitable for lubricating engines, for example, base oil is blended with additives that make the oil more viscous and able to reduce engine wear. To make an oil suitable for use in lubricating chainsaws, base oil is blended with additives to prevent rust and to give the blended oil a tacky consistency so that it does not fly off the chainsaw during use.

In order for a waste oil to be re-refined, it is required to go through specific technical processes. The waste oil must undergo either thin film evaporation or a vacuum distillation process. This process must then be followed by either a solvent extraction process or a hydrofinishing process. Recyclers may apply for alternative processes to be recognised. Any agreement to the use of an alternative process may be used only by the applicant. Each recycler is required to apply separately to the Minister.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.

Significant Government and public consultation was undertaken in developing the amendments. The Office of Regulatory Review advised that a Regulation Impact Statement was not required.

Authority: Section 37 of the *Product Stewardship (Oil) Act 2000*.