

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2006 No. 343**

Minute No. 11 of 2006 - Minister for the Environment and Heritage

Subject - *Product Stewardship (Oil) Act 2000*  
*Product Stewardship (Oil) Amendment Regulations 2006 (No. 2)*

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 is achieved by providing grant payments in the form of product stewardship (oil) benefits to eligible recyclers to undertake increased recycling of waste oil. Benefits are paid on a per litre basis for the sale or consumption of recycled oil that has been recycled in Australia.

The Regulations amend the *Product Stewardship (Oil) Regulations 2000* (the Principal Regulations) to clarify requirements for diesel fuels, including diesel extenders, and to increase the additional amount of product stewardship (oil) benefit set out in the table to regulation 4A of the Principal Regulations.

To be eligible for either a category 3 diesel fuel benefit or a category 4 diesel extender benefit (as set out in the table to regulation 4 of the Principal Regulations), the fuel claimed must comply with the *Fuel Standard (Automotive Diesel) Determination 2001* made under the *Fuel Quality Standards Act 2000*. Diesel defined under the *Fuel Quality Standards Act 2000* includes fuel which has the inherent characteristics that identify the fuel as diesel, regardless of its intended or actual end-use. The amendments to the wording of the category 3 and category 4 benefits are consistent with the intentions of the Government's Measures for a Better Environment package, which states that 'any diesel extenders or other products manufactured from recycled oil will be required to meet the relevant Commonwealth environmental standards'.

The additional amount of product stewardship (oil) benefit will be provided as an increase to those amounts previously specified in regulation 4A, which was inserted in the Principal Regulations by the *Product Stewardship (Oil) Amendment Regulations 2006 (No. 1)*, and which commenced on 1 July 2006. The additional benefit is payable to those waste oil recyclers who are eligible to claim benefits under items 5 or 6 of the table in subregulation 4(1) of the Principal Regulations, which relate to industrial burning oils. The increase will give waste oil recyclers more time to adjust to the changed excise arrangements associated with fuel recovered from waste oil. The increase in the additional benefit will be backdated to commence on 1 July 2006.

Pursuant to subsection 12(2) of the *Legislative Instruments Act 2003*, the rights and liabilities of a person (other than the Commonwealth) are not affected by the retrospective commencement of the increased rate of the additional benefit.

Paragraph 10(4)(a) of the Act states that before the Governor-General makes a regulation relating to entitlements to a product stewardship (oil) benefit in respect of the sale or consumption of recycled oil, the Minister must take into consideration the total amount that it is estimated will be collected under relevant items in the *Customs Tariff Act 1995* and the *Excise Tariff Act 1921* in the relevant period. Amendments to the category wording for diesel fuel and diesel extenders are not affected by the requirements of paragraph 10(4)(a). Since the amendments to regulation 4A will be funded through budget allocation, consideration of the estimated amount collected is not relevant to the amendment.

Paragraph 10(4)(b) of the Act states that before the Governor-General makes a regulation, the Minister must take into consideration any relevant environmental matters relating to the recycling of oils or to the use of gazetted oil. The Regulations will assist in ensuring the sustainability of the used oil recycling industry and to allow the industry time to adjust to the new excise arrangements.

The Act specifies no other conditions that had to be met before the power to make the Regulations was exercised.

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required.

Consultation was not undertaken because the amendments are of a minor nature and do not substantially alter existing arrangements.

Details of the Regulations are set out in the Attachment.

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

Regulation 1 to 3 and Schedule 1 will be taken to have commenced on 1 July 2006, and Schedule 2 will commence on the day after the Regulations are registered on the Federal Register of Legislative Instruments.

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

**ATTACHMENT****Draft details of the *Product Stewardship (Oil) Amendment Regulations 2006 (No. 2)***

Regulation 1 provides that the Regulations are the *Product Stewardship (Oil) Amendment Regulations 2006 (No. 2)*.

Regulation 2 provides for the commencement of the Regulations. Regulations 1 – 3 and Schedule 1 will be taken to have commenced on 1 July 2006, while Schedule 2 will commence on the day after the Regulations are registered on the Federal Register of Legislative Instruments.

A retrospective commencement is required for regulations 1 – 3 and Schedule 1 of the Regulations because those provisions increase to the amount previously specified in regulation 4A, which was made by the *Product Stewardship (Oil) Amendment Regulations 2006 (No. 1)*.

Regulation 3 provides that Schedules 1 and 2 to the Regulations amend the *Product Stewardship (Oil) Regulations 2000* (the Principal Regulations).

**Schedule 1 – Amendments taken to have commenced on 1 July 2006**

Item 1 omits ‘7.557’ in item 1 of column 3 to the table of regulation 4A and inserts ‘10.057’ to increase the additional benefit to 10.057 cents per litre for the period 1 July 2006 to 30 June 2007.

**Schedule 2 – Amendments commencing on the day after registration**

Item 1 substitutes existing item 3 to the table of subregulation 4(1) with ‘Diesel fuels that comply with the *Fuel Standard (Automotive Diesel) Determination 2001*, as in force from time to time’; and substitute existing item 4 to the table of subregulation 4(1) with ‘Diesel extenders: (a) that are filtered, de-watered and de-mineralised; and (b) that, if combined with diesel fuels, would produce a combined fuel that complies with the Determination mentioned in item 3’ to clarify requirements for diesel fuels including diesel extenders.

Item 2 omits ‘5’ in item 2 of column 3 to the table of regulation 4A and inserts ‘6.7’ to increase the additional benefit to 6.7 cents per litre for the period 1 July 2007 to 30 June 2008.

Item 3 omits ‘2.5’ in item 3 of column 3 to the table of regulation 4A and inserts ‘3.3’ to increase the additional benefit to 3.3 cents per litre for the period 1 July 2008 to 30 June 2009.