



Product Stewardship (Oil) Regulations 2022

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 15 September 2022

David Hurley
Governor-General

By His Excellency's Command

Tanya Plibersek
Minister for the Environment and Water

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Part 1—Preliminary

1 Name

This instrument is the *Product Stewardship (Oil) Regulations 2022*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 October 2022.	1 October 2022

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Product Stewardship (Oil) Act 2000*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) gazetted oil;
- (b) gazetted use;
- (c) product stewardship (oil) benefit;
- (d) recycled oil;
- (e) used oil.

- (1) In this instrument:

Act means the *Product Stewardship (Oil) Act 2000*.

Section 5

base oil means an oil that is free from contaminants or additives and to which other substances may be added for a particular application.

independent laboratory means a laboratory that:

- (a) is independent of the person making the claim for product stewardship (oil) benefit; and
- (b) operates at arm's length from the person; and
- (c) has appropriate facilities, resources and expertise to conduct the tests necessary for the purposes of Schedule 1.

re-refined: see subsection (2).

- (2) For the purposes of this instrument, a used oil has been **re-refined** if it has been restored to the condition of a base oil:
 - (a) first by either:
 - (i) thin film evaporation; or
 - (ii) vacuum distillation;followed by either:
 - (iii) solvent extraction; or
 - (iv) hydrofinishing; or
 - (b) by another process approved in writing for this paragraph by the Minister that is:
 - (i) consistent with the objects of the Act; and
 - (ii) similar in purpose and effect to the processes mentioned in paragraph (a).

Part 2—Amounts of product stewardship (oil) benefit

6 Amounts of product stewardship (oil) benefit

- (1) For the purposes of subsection 10(1) of the Act, the amount of product stewardship (oil) benefit for a claim period is:
- (a) for a recycled oil that is not also a gazetted oil for a gazetted use—the amount mentioned in column 2 of the first category in items 1 to 7 of the following table that applies to the recycled oil; and
 - (b) for gazetted oil for a gazetted use:
 - (i) if the oil is both a gazetted oil for a gazetted use and a recycled oil to which any of the categories in items 3 to 7 of the following table apply—the amount mentioned in column 2 of the first category in items 3 to 7 that applies to the oil; or
 - (ii) in any other case—the amount covered by column 2 of item 8 of the following table.

Amount of product stewardship (oil) benefit		
Item	Column 1 Category	Column 2 Amount (cents/l)
1	Re-refined base oil (for use as a lubricant or a hydraulic or transformer oil) that meets the criteria mentioned in Schedule 1	50
2	Other re-refined base oils	10
3	Diesel fuels that comply with the <i>Fuel Quality Standards (Automotive Diesel) Determination 2019</i>	7
4	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 <i>Fuel Quality Standards (Automotive Diesel) Determination 2019</i>	5
5	High grade industrial burning oils (filtered, de-watered and de-mineralised)	5
6	Low grade industrial burning oils (filtered and de-watered)	3
7	Industrial process oils and lubricants, including hydraulic and transformer oils (re-processed or filtered, but not re-refined)	0
8	Gazetted oil consumed in Australia for a gazetted use	The amount worked out under subsection (2)

Note: Examples for item 2 include chain bar oil and oil incorporated into a manufactured product.

Section 7

- (2) For the purposes of column 2 of item 8 of the table in subsection (1), the amount is:
 - (a) in relation to the consumption of gazetted oil for a gazetted use during the period beginning on 30 March 2022 and ending at the end of 28 September 2022—4.3 cents per litre; or
 - (b) in relation to the consumption of gazetted oil for a gazetted use during any other period—8.5 cents per litre.
- (3) Despite subsection (1), no product stewardship (oil) benefit is payable in respect of oil (including gazetted oil obtained through recycling) that is to undergo further recycling before it is sold to the end user or consumed.
- (4) For the purposes of item 1 of the table in subsection (1):
 - (a) an independent laboratory must test the oil against the criteria mentioned in Schedule 1; and
 - (b) the test results must be given to the Commissioner:
 - (i) with the first claim for benefit; and
 - (ii) at intervals of not more than 6 months while the benefit is being claimed.
- (5) For the purposes of paragraph (4)(a), a sample may be tested only if an employee of an independent laboratory certifies that:
 - (a) the sample is representative of a production run of the product; and
 - (b) the employee is satisfied that the sample was not tampered with after it was collected and before it was dispatched to the laboratory.
- (6) For the purposes of paragraph (4)(a), the independent laboratory undertaking the test must certify that the sample tested was not tampered with after receipt by the laboratory and before testing.

7 Additional amount of benefit—re-refined base oil where entitlement to benefit arose 1 July 2020 to 31 December 2020

Application of section

- (1) This section applies if:
 - (a) product stewardship (oil) benefit is payable in respect of recycled oil for a claim period; and
 - (b) apart from this section, the amount of the benefit is:
 - (i) for claims for payment of the benefit made before 1 October 2022—the amount mentioned in item 1 of the table in subregulation 4(1) of the *Product Stewardship (Oil) Regulations 2000* (as in force immediately before that date); or
 - (ii) for claims for payment of the benefit made on or after 1 October 2022—the amount mentioned in item 1 of the table in subsection 6(1) of this instrument; and
 - (c) the entitlement to the benefit arose:
 - (i) on or after 1 July 2020; and
 - (ii) on or before 31 December 2020.

- (2) For the purposes of subsection (1), it does not matter whether any amount of the benefit was paid before 1 October 2022.

Additional amount

- (3) If this section applies, the benefit includes an amount of 12 cents per litre in addition to the amount mentioned in subparagraph (1)(b)(i) or (ii) that applies in relation to the claim.

Part 3—Application, saving and transitional provisions

8 Application of this instrument

This instrument applies to a claim for product stewardship (oil) benefit that is made:

- (a) on or after the commencement of this instrument; or
- (b) before that commencement, if the amount of the benefit for the claim was not assessed under section 17 of the *Product Grants and Benefits Administration Act 2000* before that commencement.

9 Process approved by Minister

A process approved by the Minister for the purposes of subregulation 3(2) of the *Product Stewardship (Oil) Regulations 2000* that was in force immediately before the commencement of this instrument is taken, after that commencement, to be a process approved by the Minister for the purposes of paragraph 5(2)(b) of this instrument.

Schedule 1—Re-refined base oil criteria

Note: See item 1 of the table in subsection 6(1).

1 Mutagenicity

The oil must be non-carcinogenic, demonstrated by having a mutagenicity index of less than 1 using the Modified Ames Test.

2 Poly-aromatic hydrocarbons

- (1) The oil must contain less than the following for each kilogram of oil:
 - (a) 10 mg of benzo(a)pyrene;
 - (b) 10 mg of dibenz(ah)anthracene;
 - (c) 100 mg of benz(a)anthracene;
 - (d) 100 mg of benzo(b)fluoranthene;
 - (e) 100 mg of benzo(k)fluoranthene;
 - (f) 100 mg of chrysene;
 - (g) 100 mg of indeno(123-cd)pyrene.
- (2) The total amount of poly-aromatic hydrocarbons mentioned in subclause (1) that the oil contains must be less than 400 mg for each kilogram of oil.
- (3) The total amount of all poly-aromatic hydrocarbons that the oil contains (including poly-aromatic hydrocarbons mentioned in subclause (1)) must be less than 1,000 mg for each kilogram of oil.

3 Polychlorinated biphenyls

The oil must contain less than 2 mg of polychlorinated biphenyls for each kilogram of oil.

4 Polychlorinated dibenzo-p-dioxins

The total amount of dioxins and furans that the oil contains must be less than 10 picograms Toxic Equivalent for each gram of oil.

5 Total acid number

The oil must have a total acid number of less than 0.07 mg of potassium hydroxide for each gram of oil.

6 Heavy metals

The oil must contain less than the following for each kilogram of oil:

- (a) 5 mg of arsenic;
- (b) 2 mg of cadmium;
- (c) 10 mg of chromium;
- (d) 100 mg of lead.

7 Appearance

The oil must have a clear and bright appearance.

Schedule 2—Repeals

Product Stewardship (Oil) Regulations 2000

1 The whole of the instrument

Repeal the instrument.