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Ruling Compendium – PGBR 2012/1

This is a compendium of responses to the issues raised by external parties to draft PGBR 2012/D1 – *Product Stewardship (Oil) Benefit: the meaning of the expression 'goods produced from used oil' and the terms 'filtered', 'de-watered', and 'de-mineralised' for the purposes of the Product stewardship for oil benefit scheme.*

This compendium of comments has been edited to maintain the anonymity of entities that commented on the draft Ruling.

Summary of issues raised and responses

Issue No.	Issue raised	ATO Response/Action taken
1	General enquiry as to whether or not the Ruling impacted on producers of gazetted oils (item 8 of the table in subregulation 4(1) of the Product Stewardship (Oil) Regulations 2000).	The Ruling only applies to producers of high grade industrial burning oils (item 5 of the table in subregulation 4(1) of the Product Stewardship (Oil) Regulations 2000) and low grade industrial burning oils (item 6 of the table in subregulation 4(1) of the Product Stewardship (Oil) Regulations 2000). However, the Commissioner's views expressed in relation to items 5 and 6, where relevant, will have application to the Product stewardship oil (PSO) scheme generally.
2	Proposed minor amendments to various paragraphs (that is, 8, 16, 31, 47, 51, 59, 61,105, 110 & 118) to improve clarity and certainty.	Agreed. Paragraphs amended.
3	The Ruling states that the ordinary meaning of the word to be attributed to terms 'filtered', 'de-watered' and 'de-mineralised' rather than a technical meaning. However, Ruling is not clear in all instances (for example, paragraphs 94 to 97 and 116) that the terms may have a particular meaning in the context of the product stewardship oil scheme.	Wording reviewed and amended where necessary to improve clarity. Ruling to reflect the ordinary meaning of the terms 'filtered', 'de-watered' and 'de-mineralised'.
4	For completeness, the Ruling should provide an explanation of the second limb of the meaning of 'recycled oil'.	Agreed. Ruling only deals with high grade and low grade industrial burning oils. Footnote to paragraph 22 amended to provide further guidance.

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Issue No.	Issue raised	ATO Response/Action taken
5	Ruling section needs to include a reference to the conclusion reached by the Commissioner that the ordinary meaning of 'produce' includes 'manufacture'.	Agreed. Ruling section amended to include a reference to the Commissioner's conclusion that the ordinary meaning of 'produce' includes 'manufacture'.
6	In paragraph 50, replace the term 'solid contaminants' with either 'impurities' or 'contaminants' since the ordinary meaning of 'filtered' includes the removal of suspended impurities or to recover solids.	Use of term 'solid contaminants' reviewed. Ruling and Explanation sections to refer to both suspended impurities and solid contaminants.
7	Paragraph 51. Recommend that the meaning of the term 'de-watering' be defined as "The Commissioner considers that used oil has been 'de-watered' if water arising through the oil's use has been removed from the oil such that the water content of the used oil is less than 0.1% by weight when assessed by ASTM D95, ASTM D6304 or equivalent standard." De-watering should result in a de-watered 'fuel' and oily water by-product.	The product stewardship oil legislation does not define 'de-watered'. There is no universally accepted industry standard or practice for 'de-watering'. However, within the current legislative framework, a legislative amendment would be required to give effect to such a specific definition. Matter referred to Treasury and the Department of Sustainability, Environment, Water, Population and Communities. The discussion on the meaning of 'de-watered' has been strengthened to highlight used oil must be subjected to a process and water present in the oil must be separated and removed from the used oil.

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Issue No.	Issue raised	ATO Response/Action taken
8	Paragraph 59. Recommend that the meaning of the term 'de-mineralised' be defined as "The Commissioner considers that used oil has been 'de-mineralised' of soluble and insoluble metals (lead, chromium, arsenic, cadmium, mercury, antimony and vanadium; and inorganic materials (such as salts and additives) arising from the oil's use have been removed for the used oil such that the mineral content is below 0.01% (100 ppm) when assessed by ASTM D5708, ASTM D7111 or equivalent." De-mineralising should result in a de-mineralised 'fuel' and a high mineral content (low grade – suitable for category 6) fuel by-product or equivalent high mineral content aqueous or solid.	The product stewardship oil legislation does not define 'de-mineralised'. There is no universally accepted industry standard or practice for 'de-mineralising'. However, within the current legislative framework, a legislative amendment would be required to give effect to such a specific definition. Matter referred to Treasury and the Department of Sustainability, Environment, Water, Population and Communities. The discussion on the meaning of 'de-mineralised' has been strengthened to highlight used oil must be subjected to a process and that contaminants must be removed from the used oil.
9	Proposed minor amendments to various paragraphs so as to improve clarity of the Ruling.	Agreed.
10	Proposed various policy and legislation initiatives aimed at enhancing the objectives of the Product stewardship oil scheme.	Matter referred to Treasury and the Department of Sustainability, Environment, Water, Population and Communities.
11	Recommend paragraph 124 be amended to read as follows: 124. The Commissioner considers that used oil is de-mineralised if it is subjected to a process that removes or reduces the amount of soluble and insoluble metals, inorganic materials and minerals in the used oil.	Paragraph amended to strengthen the meaning of 'de-mineralised'.
12	Recommended various policy initiatives aimed at enhancing the outcomes of the Product stewardship oil scheme.	Matter referred to Treasury and the Department of Sustainability, Environment, Water, Population and Communities.