



# Australian Government

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## Department of Sustainability, Environment, Water, Population and Communities

# ANNUAL REGULATORY PLAN

## Sustainability, Environment, Water, Population and Communities Portfolio 2011-2012

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## Sustainability, Environment, Water, Population and Communities Portfolio Regulatory Plan

This site sets out the regulatory plan for the Department of Sustainability, Environment, Water, Population and Communities (the **Department**) and agencies within the Sustainability, Environment, Water, Population and Communities portfolio apart from the Great Barrier Reef Marine Park Authority. The regulatory plan for the Great Barrier Reef Marine Park Authority can be viewed at: [http://www.gbrmpa.gov.au/corp\\_site/about\\_us/regulatory\\_plan](http://www.gbrmpa.gov.au/corp_site/about_us/regulatory_plan).

Commonwealth agencies that have a responsibility for business regulation are required to publish a regulatory plan on their web site early in each financial year. The regulatory plan deals with changes within the agency's area of responsibility and contains information about:

- changes to business regulation which have occurred since the beginning of the previous financial year; and
- activities planned in the current financial year which could lead to changes in business regulation.

## What regulation does a Regulatory Plan cover?

A regulatory plan covers business regulation. This includes primary legislation, subordinate legislation, quasi-regulation or treaties which directly affect business, have a significant indirect effect on business, or restrict competition.

Quasi-regulation refers to rules or arrangements where governments influence businesses to comply, but which do not form part of the explicit government regulation.

A regulatory plan does not include information about the following:

- regulations that are likely to have no or a low impact on businesses and individuals or the economy;
- regulations that involve considerations of specific Government purchases;
- regulations of a state or self-governing territory that apply in a non-self governing territory; and
- anticipated activity about which it would be inappropriate to publish information on grounds of confidentiality.

In addition, there may be regulatory activities undertaken during the next financial year which have not been included in a regulatory plan because they could not be foreseen when the plan was prepared at the start of the financial year.

In view of these exclusions, users should not take a regulatory plan to be a comprehensive source of information on past or potential changes to business regulation.

# Summary of regulatory changes during the 2010/2011 financial year

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## Antarctica

- Amendment to the *Antarctic Treaty (Environmental Protection) Proclamation 2007* and the *Antarctic Treaty (Environmental Protection – Historic Sites and Monuments) Proclamation 2007*

## Environment

- Listing of tributyltin compounds on the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- Amendments to the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*
- Amendments to the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*

## Water

- Amendment to the Murray-Darling Basin Agreement (Schedule 1 of the *Water Act 2007*)
- Amendments to the *Water Efficiency Labelling Standards Act 2005*
- Commencement of the *Water Charge (Infrastructure) Rules 2010*
- Commencement of the *Water Charge (Planning and Management) Rules 2010*
- Commencement of the *Water Charge (Termination Fees) Amendment Rules 2011* to amend the *Water Charge (Termination Fees) Rules 2009*

# Summary of regulatory activity planned for the current financial year 2011/2012

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## Antarctica

- Amendment to the *Antarctic Treaty (Environment Protection) Act 1980*
- Amendment to the *Antarctic Treaty (Environment Protection) Proclamation 2007* and the *Antarctic Treaty (Environment Protection – Historic Sites and Monuments) Proclamation 2007*

## Environment

- Review of Australia's national environmental law
- Council of Australian Governments (**COAG**) Plastics and Chemical Regulation Reform
- Development of a new Fuel Quality Standard for E85 under the *Fuel Quality Standards Act 2000*
- Amendments to the *Fuel Quality Standards Regulations 2001*
- Amendments to the *Fuel Standard (Autogas) Determination 2003*
- Amendments to the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989*, *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* and *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995* and associated regulations
- Amendments to the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995*
- Commencement of *Product Stewardship Act 2011*
- Commencement of *Product Stewardship Regulations*
- Amendments to the *Product Stewardship (Oil) Regulations 2000*
- Ministerial Determination on Voluntary Product Stewardship under *Product Stewardship Act 2011*
- Potential treaty making action to list alachlor, aldicarb and endosulfan on the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- Potential treaty making action for changes to the Stockholm Convention on Persistent Organic Pollutants

## Parks

- Management Plans for the Commonwealth reserves of Booderee National Park, Australian National Botanic Gardens, Christmas Island National Park, Pulu Keeling National Park and Kakadu National Park

# Water

- Amendment regulations to improve the operational effectiveness of the *Water Act 2007*
- Amendments to the Murray-Darling Basin Agreement (Schedule 1 to the *Water Act 2007*) and *Water Regulations 2008*
- Development of Basin Plan under the *Water Act 2007*
- Operating rules relating to the Commonwealth Environmental Water Holder purchasing, disposing of or otherwise dealing in water and water access rights
- Possible amendments to *Water Market Rules 2009* and *Water Charge (Termination Fees) Rules 2009*
- Possible legislative amendments following the COAG review of the National Water Commission
- Determination by Minister under *Water Efficiency Labelling and Standards Act 2005* to amend requirements for clothes washing machines under the Water Efficiency Labelling and Standards (**WELS**) Scheme
- Response to the five-year independent review of the WELS Scheme, including amendments to the *Water Efficiency Labelling and Standards Act 2005*

# Description of regulatory changes during the 2010/2011 financial year

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## Antarctic

### *Amendment to the Antarctic Treaty (Environment Protection) Proclamation 2007 and the Antarctic Treaty (Environmental Protection Historic Sites and Monuments) Proclamation 2007*

#### **Description of Issues**

Annex V of the Environmental Protocol to the Antarctic Treaty provides for the designation of Antarctic Specially Protected Areas (**ASPAs**), Antarctic Specially Managed Areas (**ASMAs**) and Historic Sites and Monuments (**HSMs**). These areas are designated by the Antarctic Treaty Consultative Meeting in order to protect outstanding environmental, scientific, historic, aesthetic or wilderness values or ongoing planned scientific research.

Entry into ASPAs and ASMAs is regulated under the *Antarctic Treaty (Environment Protection) Act 1980* and it is an offence to damage or destroy a HSM.

The *Antarctic Treaty (Environment Protection) Amendment Proclamation 2010* and the *Antarctic Treaty (Environment Protection – Historic Sites and Monuments) Amendment Proclamation 2010* were prepared to implement into domestic law agreed new ASPAs, ASMAs and HSMs, and changes to boundaries, agreed at the 30<sup>th</sup>, 31<sup>st</sup> and 32<sup>nd</sup> Antarctic Treaty Consultative Meeting.

#### **Date of Effect**

The *Antarctic Treaty (Environment Protection) Amendment Proclamation 2010* and the *Antarctic Treaty (Environment Protection – Historic Sites and Monuments) Amendment Proclamation 2010* came into effect on 19 November 2010.

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# Environment

## Listing of tributyltin compounds on the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

### Description of Issues

The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade Convention's (**Rotterdam Convention**) Prior Informed Consent (**PIC**) Procedure provides a mechanism for information exchange on certain hazardous chemicals and pesticides to assist countries in making informed decisions before importing these chemicals. The PIC Procedure requires that all Parties ensure informed consent is received before exporting any chemical listed in Annex III.

Australia is a Party to the Rotterdam Convention. Parties were required to complete their implementation of the listing tributyltin compounds (a pesticide) in Annex III by 1 June 2010. The *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* were amended to include tributyltin compounds at that time. To reinforce the amendment, the *Customs (Prohibited Exports) Regulations 1958* were amended to include tributyltin compounds in the following reporting year.

In compliance with the Rotterdam Convention, the regulatory amendments require all potential exporters to obtain a permit from the Department of Agriculture, Fisheries and Forestry before exporting tributyltin compounds.

### Date of Effect

Amendments to the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* came into effect on 1 June 2010.

Amendments of the *Customs (Prohibited Exports) Regulations 1958* came into effect on 9 April 2011.

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## **Amendments to the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989***

### **Description of Issues**

The amendments to the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (the **Ozone Act**) made by the *Ozone Protection and Synthetic Greenhouse Gas Management Amendment Act 2010*:

- introduced an infringement notices framework;
- introduced civil penalties;
- strengthened search and seizure powers;
- appropriately defined forfeiture provisions;
- modernised rates of financial penalty and fit and proper person criteria;
- adjusted certain licence periods;
- clarified the purposes of the Ozone Protection and SGG Account;
- clarified reporting periods for licence holders;
- banned the import of refrigeration and air conditioning equipment containing Hydrochlorofluorocarbons (HCFCs) or designed to operate using HCFCs, but provided for exemptions in certain circumstances; and
- made other minor amendments.

### **Date of Effect**

The amendments to the Ozone Act received Royal Assent on 18 November 2010, and came into effect on 18 May 2011.

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## **Amendments to the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995***

### **Description of Issues**

The *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (the **Ozone Regulations**) were amended as a consequence of amendments to the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* that were made by the *Ozone Protection and Synthetic Greenhouse Gas Management Amendment Act 2010*.

The amendments to the Regulations were needed to exempt certain types of refrigeration and air conditioning equipment from the restriction on the importation and manufacture of equipment which is pre-charged with hydrochlorofluorocarbons.

## **Date of Effect**

The amendments to the Ozone Regulations came into effect on 18 May 2011.

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# **Water**

## **Amendment to the Murray-Darling Basin Agreement (Schedule 1 of the Water Act 2007)**

### **Description of Issues**

The Murray-Darling Basin Agreement (the **MDB Agreement**) was amended to:

- give effect to clause 8(3) of the MDB Agreement by including an end-of-valley target for salinity for the Australian Capital Territory in Appendix 1 of Schedule B;
- extend the Waikerie Salt Interception Scheme contained within the list of authorised joint works and measures that assist in maintaining salinity in Appendix 2 of Schedule B; and
- give effect to clauses 130 and 135 of the MDB Agreement by appending Schedules G and H to the MDB Agreement which cover 'Accounting for South Australia's Storage Rights' in the upper Murray storages and a 'Schedule for Water Sharing' under dry conditions.

### **Date of Effect**

The above amendments, with exception of new Schedules G and H, came into effect on 1 July 2011.

Schedules G and H will commence, in the absence of a Ministerial Council determination, on 1 June 2012.

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## Amendments to the *Water Efficiency Labelling Standards Act 2005*

### Description of Issues

Amendments were made to sections 19 and 29 of the *Water Efficiency Labelling and Standards Act 2005* (the **WELS Act**). These measures enable closer integration of the Water Efficiency Labelling and Standards (**WELS**) requirements with other plumbing regulations. The Minister now has the ability to include additional matters, such as those included in a state or territory plumbing requirement, in a WELS standard.

The amendments will allow the Minister to make WaterMark certification a requirement for WELS registration of plumbing products. WaterMark certification is already a requirement for WELS plumbing products under state and territory law. Therefore, these amendments only have a significant impact on those who are not currently meeting their obligations under state and territory requirements.

### Date of Effect

The amendments came into effect on 22 March 2011.

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## Commencement of the *Water Charge (Infrastructure) Rules 2010*

### Description of Issues

The *Water Charge (Infrastructure) Rules 2010* (the **Infrastructure Rules**) were made on 21 December 2010.

The Infrastructure Rules promote greater rigour, transparency and consistency in the way charges for rural water infrastructure services are levied across the Murray-Darling Basin (the **Basin**). The Infrastructure Rules comprise a three-tiered, increasingly rigorous, approach to the regulation of irrigation infrastructure operators. This means the level of regulation under the Infrastructure Rules varies depending on the size and ownership arrangements of irrigation infrastructure operators.

The Infrastructure Rules apply to all irrigation infrastructure operators in the Basin. The Infrastructure Rules also provide for the accreditation of state regulators to undertake price approvals or determinations.

### Date of Effect

The Infrastructure Rules came into effect on 12 January 2011, subject to transition periods.

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## Commencement of the *Water Charge (Planning and Management Information) Rules 2010*

### Description of Issues

The *Water Charge (Planning and Management Information) Rules 2010* (the **Planning and Management Information Rules**) were made on 16 July 2010.

The Planning and Management Information Rules make information on water planning and management changes more widely and consistently available across Murray-Darling Basin (the **Basin**) states. The Planning and Management Information Rules also result in greater, more direct disclosure of both the costs of water planning and water management activities for which charges are levied and the link between those costs and the charges imposed on water access entitlement holders and other water users.

The Planning and Management Information Rules apply to all persons determining a charge for water planning and management activities in the Basin. Whenever a Basin's state government or agency sets a charge to cover the cost of water planning and management activities, the Planning and Management Information Rules require publication of detailed information about the charge and disclosure of the process and basis for setting the charge.

### Date of Effect

The Planning and Management Information Rules came into effect on 1 July 2011.

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## Commencement of the *Water Charge (Termination Fees) Amendment Rules 2011 to amend the Water Charge (Termination Fees) Rules 2009*

### Description of Issues

The *Water Charge (Termination Fees) Amendment Rules 2011* (the **Amendment Rules**) were made on 4 February 2011. The Amendment Rules amended the *Water Charge (Termination*

*Fees) Rules 2009* (the **Termination Fee Rules**) to allow irrigation infrastructure operators to add goods and services tax (**GST**) to termination fees. The amendments are consistent with the original policy intent of the Termination Fee Rules.

The amendments affect irrigation infrastructure operators and terminating irrigators. Where an irrigation infrastructure operator faces a GST liability on termination fees, the operator will be able to increase termination fees above the cap specified in the Termination Fee Rules to recover the cost of the GST liability. Terminating irrigators will be able to claim GST levied on termination fees as a business input tax credit, providing they are registered for GST and the GST claim is related to their business activities.

### **Date of Effect**

The Amendment Rules came into effect on 17 February 2011.

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# Description of regulatory activity planned for the current financial year 2011 / 2012

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## Antarctica

### Amendment to the *Antarctic Treaty (Environment Protection) Act 1980*

#### Description of Issues

Amendment to the *Antarctic Treaty (Environment Protection) Act 1980* (the **ATEP Act**) is proposed to implement domestically Australia's Antarctic Treaty obligations pursuant to:

- Measure 4 (2004) – Insurance and Contingency Planning for Tourism and Non-governmental activities in the Antarctic Treaty Area (**Measure 4 (2004)**);
- Measure 1 (2005) – Annex VI to the Protocol on Environmental Protection to the Antarctic Treaty: Liability Arising from Environmental Emergencies (**Measure 1 (2005)**); and
- Measure 15 (2009) – Landing of Persons from Passenger Vessels in the Antarctic Treaty Area (**Measure 15 (2009)**).

Under amendments pursuant to Measure 4 (2004) companies or individuals organising or conducting tourism or other non-governmental activities in the Antarctic would:

- need to establish and maintain appropriate contingency plans;
- have in place arrangements for health and safety, search and rescue, medical care and evacuation prior to commencing an activity; and
- require insurance or other arrangements adequate to meet the costs of search and rescue, medical care and evacuation.

The amendments relating to Measure 4 (2004) will contribute to improved safety outcomes for tourism and other non-governmental activities occurring in the Antarctic.

Under amendments pursuant to Measure 1 (2005), environmental emergencies relating to scientific programs, tourism and all other governmental and non-governmental activities in the Antarctic would:

- need to undertake reasonable preventative measures to reduce the risk of environmental emergencies and their potential adverse impact;
- need to establish and maintain contingency plans for responses to incidents with potential adverse impacts on the Antarctic environment;
- need to take prompt and effective response action to environmental emergencies arising from the activities of that operator; and
- require adequate insurance or other financial security to cover potential liability for failure to take prompt and effective response action.

The amendments relating to Measure 1 (2005) will contribute to improved response action to environmental emergencies relating to scientific programs, tourism and all other governmental and non-governmental activities occurring in the Antarctic.

Under amendments pursuant to Measure 15 (2009) companies or individuals organising or conducting tourism or other non-governmental activities in the Antarctic would need to:

- refrain from making any landings in Antarctica from vessels carrying more than 500 passengers;

- coordinate between and with each other with the objective that not more than one tourist vessel is at a landing site at any one time;
- restrict the number of passengers on shore at any one time to 100 or fewer; and
- maintain a 1:20 guide-to-passenger ratio.

The amendments relating to Measure 15 (2009) will contribute to improved safety and environmental outcomes for tourism and other non-governmental activities occurring in Antarctica.

### **Consultation Opportunities**

The Australian Antarctic Division has consulted on an ongoing basis with Australian Antarctic tourism operators and relevant Commonwealth and Tasmanian government agencies and non-government organisations, over the implications arising from the above Measures and envisaged amendments to the ATEP Act.

Regulation Impact Statements have been prepared for each Measure and are available from the Office of Best Practice Regulation.

Ongoing liaison will be maintained with the above stakeholders during the development of the legislative amendments.

### **Expected Timetable**

Processes for implementation of the Measures are in train. The text of each Measure, along with a National Interest Analysis and Regulation Impact Statement were tabled in Parliament on 5 July 2011 (<http://www.aph.gov.au/house/committee/jsct/5july2011/tor.htm>).

A bill to implement the Measures is proposed to be introduced in the House of Representatives in Spring 2011.

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## ***Amendment to the Antarctic Treaty (Environment Protection) Proclamation 2007 and the Antarctic Treaty (Environment Protection – Historic Sites and Monuments) Proclamation 2007***

### **Description of Issues**

Annex V of the Environmental Protocol to the Antarctic Treaty provides for the designation of Antarctic Specially Protected Areas (**ASPAs**), Antarctic Specially Managed Areas (**ASMAs**) and Historic Sites and Monuments (**HSMs**). These areas are designated by the Antarctic Treaty Consultative Meeting in order to protect outstanding environmental, scientific, historic, aesthetic or wilderness values or ongoing planned scientific research.

Entry into ASPAs and ASMAs is regulated under the *Antarctic Treaty (Environment Protection) Act 1980* and it is an offence to damage or destroy a HSM.

Amendment Proclamations will be prepared in 2011 to implement into domestic law agreed new ASPAs, ASMAs and HSMs, and changes to boundaries, agreed at the 33<sup>rd</sup> and 34<sup>th</sup> Antarctic Treaty Consultative Meeting.

### **Consultation Opportunities**

The Australian Antarctic Division has consulted on an ongoing basis with Australian Antarctic tourism operators and relevant Australian and Tasmanian government agencies, universities and non-government organisations on these regulatory changes.

The Office of Best Practice Regulation will be consulted on whether this regulatory change requires a Regulatory Impact Assessment.

### **Expected Timetable**

Consultation with the Office of Best Practice Regulation will occur in the latter half of 2011, with the amendment proclamation proposed to be in effect by early 2012.

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## **Environment**

### **Reform of Australia's national environmental law**

#### **Description of Issues**

On 24 August 2011 the Minister for Sustainability, Environment, Water, Population and Communities released the government response to the independent review of the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* as part of a broad package of reforms for Australia's national environment law.

Key elements of the reform package include:

- 1. New strategic approaches**—*taking a more proactive approach to protecting Australia's environment through more strategic assessments and regional environment plans.*
- 2. A more streamlined assessment process**—*cutting red tape for business and improving the timeliness of decision making.*
- 3. New national standards for accrediting environmental assessment and approval processes**—*ensuring Commonwealth and state systems are better aligned.*

**4. A new biodiversity policy for consultation**—*delivering an Australian Government biodiversity policy to help protect our ecosystems across the continent.*

**5. Improving the listing of species for protection**—*producing a single national list of threatened species and ecological communities to reduce inconsistencies between jurisdictions.*

**6. Identifying and protecting ecosystems of national significance**—*identifying and assessing ecosystems of national significance through regional environment plans, strategic assessments or conservation agreements.*

**7. Better regulating international trade in wildlife**—*streamlining permits process while continuing to meet our international obligations and ensuring a rigorous approach to wildlife trade.*

**8. Providing more public information**—*making more information publicly available, including making it standard practice to publish the departmental recommendation reports for the Minister's decisions under national environment law.*

**9. More cooperative approach to developing environmental standards**—*seeking partners for a new National Centre for Cooperation on Environment and Development that will bring together industry, scientists, non-government organisations and governments to work together on environmental standards, guidelines and procedures.*

**10. Better processes for heritage listing**—*introducing a more transparent listing process based on a single assessment list, and more open discussion about heritage values with stakeholders.*

**11. A draft environmental offsets policy**—*to provide transparency, consistency and better guidance to determine offsets in environmental impact assessment under the EPBC Act.*

**12. Consultation on possible introduction of cost recovery**—*to ensure adequate resourcing for administration of the EPBC Act, with a release a cost recovery paper which will outline options for cost recovery of specific activities under the EPBC Act.*

Further information on the reforms can be found at:

<http://www.environment.gov.au/epbc/reform/index.html>

### **Consultation Opportunities**

The Government has undertaken significant consultation with a range of stakeholders in preparing its reform package.

### **Expected Timetable**

The Government will introduce new legislation to implement its reform package during this term of Parliament.

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## Council of Australian Governments Plastics and Chemical Regulation Reform

### Description of Issues

In 2008, the Productivity Commission examined Australia's system of regulating chemicals and plastics in its Research Report on Chemicals and Plastics Regulation. The Productivity Commission noted that, in contrast to other sectors such as health, transport and occupational health and safety, there is currently no risk management decision-making body for chemicals in the environment sector and no formal policy oversight by environment ministers.

In response to the Productivity Commission recommendations, in November 2008 the Council of Australian Governments (**COAG**) directed the Environment Protection and Heritage Council (**EPHC**) to develop a proposal for establishing a technical advisory body to propose risk management recommendations on industrial chemicals for consideration by the EPHC (now the COAG Standing Committee on Environment and Water). COAG noted that this proposal would provide for the development of a single national decision on the environmental management of chemicals that could be adopted by reference and applied consistently in all jurisdictions and would close a significant gap in current arrangements for environment protection.

At the same meeting, COAG agreed that EPHC would examine the costs and benefits of requiring mandatory environmental labelling of chemicals and examine the feasibility of developing a performance measurement framework for efforts to monitor the impact of chemicals in the environment for impacts both on human health and the environment.

Development of this regulatory framework is included as part of the tranche of chemicals reforms under Outcome 16 (chemicals and plastics regulation) of COAG's National Partnership Agreement to Deliver a Seamless National Economy.

In 2009, the initiative was included as a key project under strategy 12 (reducing hazard and risk) of the COAG-endorsed *National Waste Policy: Less Waste, More Resources*.

### Consultation Opportunities

It is anticipated that a COAG Consultation Regulation Impact Statement and public consultation process will be undertaken in the latter half of 2011.

### Expected Timetable

It is expected that public consultation on the Consultation Regulation Impact Statement will occur in late 2011.

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## **Development of a new Fuel Quality Standard for E85 under the *Fuel Quality Standards Act 2000***

### **Description of Issues**

An ethanol E85 fuel quality standard is being developed in response to expansion of the Australian E85 market.

Ethanol E85 is a blend of 70–85 per cent ethanol with petrol, which until recently has been a niche fuel. However, in 2010 industry made announcements that will lead to more E85 bowsers and more vehicles compatible with E85. Accordingly, the greater supply and use of E85 fuel provides a renewed impetus to develop an E85 Fuel Quality Standard.

Regulation of E85 fuel through the new standard will look to:

- reduce emission and pollution levels arising from the use of E85 fuel, which may cause environmental and health problems;
- facilitate the adoption of better engine technology and emission control technology; and
- allow for the more effective operation of engines.

### **Consultation Opportunities**

During the development of the E85 discussion paper, there was extensive technical assessment and stakeholder consultation including the release of a technical discussion paper for public consultation in June 2011.

Technical advice and industry data were sought from ethanol producers, vehicle manufacturers and testing laboratories on a number of quality parameters and test methods to ensure the rigour and accuracy of the proposed standard. Advice was also sought from international stakeholders.

### **Expected Timetable**

- September 2011: Development of minor Regulation Impact Statement
- October 2011: Drafting of the determination by the Office of Legislative Drafting and Publishing
- December 2011: Ministerial approvals
- March 2012: Registration on Federal Register of Legislative Instruments

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## **Amendments to the *Fuel Quality Standards Regulations 2001* under the *Fuel Quality Standards Act 2000***

## Description of Issues

Amendments are required as a consequence of amendments made to the *Fuel Quality Standards Act 2000* (**FQS Act**) in November 2009. The proposed amendments will also provide for more appropriate fuel standards for blends.

The proposed amendments will:

- clarify that financial hardship is not the only basis for waiving of section 14 application fees (relates to regulation 6);
- remove provisions relating to expert advisers which have been removed from the FQS Act;
- amend regulation 7A to include a timeframe for providing documents that must accompany fuel supplies as a result of a new civil penalty provision;
- include provisions relating to administration of infringement notices and enforceable undertakings which are new enforcement provisions in the FQS Act; and
- extend the power to request further information from applicants for section 13 approvals to a Senior Executive Service officer within the Department.

## Consultation Opportunities

There was a comprehensive consultation process under the first statutory review of the FQS Act during 2004/05. The Fuel Standards Consultative Committee, which consists of representatives from the fuel industry, vehicle manufacturers, consumers, environment groups, and state, territory and Commonwealth agencies, was consulted, as were all major fuel producers and suppliers, including biofuel producers.

## Expected Timetable

- 30 August 2011: Amendment regulations finalised by Office of Legislative Drafting and Publishing
- 30 September 2011: Ministerial approvals finalised
- 30 October 2011: Final documents submitted to the Federal Executive Council
- November 2011: Sign off by Governor General at the Federal Executive Council

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## ***Amendments to the Fuel Standard (Autogas) Determination 2003 under the Fuel Quality Standards Act 2000***

### Description of Issues

The *Fuel Standard (Autogas) Determination 2003* (**Autogas Standard**) regulates the quality of liquefied petroleum gas (**LPG**) supplied in Australia for automotive use.

The Australian Government has a policy position for international harmonisation of standards for vehicles and fuels with the United Nations Economic Commission for Europe vehicle

emissions standards. As such, Australian fuel specifications are generally harmonised with the corresponding European Directives for market fuel specifications, in this case EN 589.

The proposed amendments will seek to harmonise the Australian standard with international standards and to reduce the sulfur and residue levels in LPG. Other parameters that will assist in reducing residues are the Motor Octane Number and the introduction of an olefin parameter. Amendments are also proposed for test methods in moisture and odour content to harmonise with EN 589 and a new test method is introduced for the monitoring of the olefins parameter.

### **Consultation Opportunities**

A discussion paper to review the Autogas Standard was released for public consultation in January 2010. A two-month public consultation period was conducted in conjunction with the release of the discussion paper, including written submissions. Consultation was also held with key stakeholders including Commonwealth and state and territory government agencies.

Under the FQS Act, the Minister must consult with the Fuel Standard Consultative Committee (**FSCC**) and give regard to the FSCC's recommendations before determining a fuel standard or fuel quality information standard. The FSCC was consulted on the proposed amendments to the LPG standard at their 18th meeting on 22 September 2010 and again at their 19 Meeting on 29 March 2011.

### **Expected Timetable**

- August 2011: Development of a Minor Regulation Impact Statement
- October 2011: Ministerial approval to amend the Autogas Standard
- November 2011: Drafting of amendments with Office of Legislative Drafting and Publishing
- December 2011: Ministerial approvals finalised
- February 2012: Registration on Federal Register of Legislative Instruments

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### ***Amendments to the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989, Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995 and Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995 and associated regulations***

### **Description of Issues**

Amendments will be made to the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (the **Ozone Act**), *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* and *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995* (collectively the **Levy Acts**) and associated regulations to take into account changes due to the Clean Energy Future Plan.

Changes will be made to:

- include regulation for sulfur hexafluoride and equipment containing synthetic greenhouse gases;
- amend the Levy Acts to provide for the carbon price;
- allow provision to exempt some equipment where it is impractical to apply the carbon price;
- provision for importers and manufacturers to offset synthetic gases exported, including where the synthetic greenhouse gases are used by companies that are not importers or manufacturers; and
- other administrative or minor amendments.

### **Consultation Opportunities**

The Department will commence holding information sessions in August 2011 on the nature of these changes.

### **Expected Timetable**

The amendments to the Ozone Act and Levy Acts are expected to be tabled in Parliament in 2011. Consequential amendments to associated regulations are expected to be developed in early 2012.

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### ***Amendments to the Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995***

### **Description of Issues**

Amendments will be made to the *Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995* (the **Ozone Regulations**) as a consequence of amendments made to the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* (the **Ozone Act**).

The amendments will:

- establish a civil penalty regime as an alternative to criminal prosecution for all offences in the Ozone Regulations;
- establish an infringement notices scheme for offences specified in the Ozone Act and the Ozone Regulations;
- update the penalty units for all offences in the Ozone Regulations;
- update fit and proper person provisions to allow the Minister or relevant Industry Board to consider a greater variety of matters when considering whether an applicant is a fit and proper person to be granted an authorisation;
- update regulation 133 to clarify the criteria for granting restricted refrigeration and air conditioning licences, and clarify the validity of transitional and restricted licences issued under this regulation;

- update regulation 111 to require the person decommissioning refrigeration and air conditioning equipment to have a licence rather than just being supervised by a licence holder;
- clarify reporting requirements and the authority for determining the form in which reports should be made by licensees;
- clarify record keeping obligations;
- update regulation 4 to enable the Department to publish information about licence holders and licence conditions as necessary;
- amend manufacture and import levy rounding to simplify administration and reduce compliance costs;
- consider a potential permit application fee increase for refrigeration and air conditioning and fire protection;
- propose automatic CPI indexing of refrigeration and air conditioning and fire protection permit application fees;
- include consequential amendments as a result of Clean Energy Future Plan legislation amendments in regards to synthetic greenhouse gases; and
- include other administrative or minor amendments.

### **Consultation Opportunities**

Relevant industry boards and industry stakeholders have been consulted on the proposed increases to the refrigeration and air conditioning and fire protection permit fees and will again be consulted in reviewing the cost recovery regime. There were previously no substantial objections to the proposed increases.

Australia-wide consultation by the Department in 2009 indicated widespread support for many of the amendments in the Ozone Act made by the *Ozone Protection and Synthetic Greenhouse Gas Management Amendment Act 2010*, and the amendments which will be made to the Ozone Regulations.

In particular, significant support was received for the provision of civil penalties, supplementing the existing approach which provides only for criminal offences, since this would strengthen compliance within the system and provide for appropriate penalties.

### **Expected Timetable**

The amendments are expected to be submitted to the Federal Executive Council early in 2012.

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### **Commencement of *Product Stewardship Act 2011***

## Description of Issues

The *Product Stewardship Act 2011* (the **Product Stewardship Act**) establishes a national framework to allow Australia to more effectively manage the environmental, health and safety impacts of products especially, the disposal of products which often contain hazardous substances.

The framework includes voluntary, co-regulatory and mandatory product stewardship. Voluntary product stewardship will provide an avenue for encouraging and recognising product stewardship without the need to regulate.

Co-regulatory product stewardship will involve a combination of government regulation and industry action. The mandatory product stewardship provisions in the Product Stewardship Act will allow for regulations to establish prescriptive product stewardship requirements. Regulations can only be made under co-regulatory and mandatory product stewardship following a regulatory impact assessment.

## Consultation Opportunities

- In early 2010, the Australian Government formed the Product Stewardship Legislation Stakeholder Reference Group.
- A consultation paper on the proposed design of the national product stewardship legislation was released in November 2010.
- Public consultation sessions were held in Sydney, Adelaide, Brisbane, Melbourne and Perth in the week of 22-26 November 2010.
- The Senate Committee's inquiry into the Product Stewardship Bill 2011 (the **Bill**) provided a further avenue for public submissions on the Bill.

## Expected Timetable

It is anticipated that the *Product Stewardship Act 2011* will commence operation in August 2011.

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## Commencement of *Product Stewardship Regulations*

### Description of Issues

A Regulation Impact Statement on televisions and computers published in November 2009 highlighted a number of problems associated with the current low recycling rate for television and computer products.

It is proposed that *Product Stewardship Regulations* (the **Product Stewardship Regulations**) will be made under Part 3 of the *Product Stewardship Act 2011* (the **Product Stewardship**

**Act)** to establish a national industry-run recycling scheme for televisions, computers, computer products and printers.

Part 3 of the Product Stewardship Act relates to co-regulatory product stewardship. This involves a combination of industry action and supporting government regulation to achieve outcomes specified in regulations.

Under Part 3, “liable parties” identified in regulations with respect to a class of products will be required to become a member of an approved co-regulatory arrangement. Co-regulatory arrangements will have administrators who will be required to meet outcomes identified in regulations (e.g. recycling targets). The Product Stewardship Regulations will ensure that all relevant members of an industry participate and there are no free-riders.

### **Consultation Opportunities**

Public consultation has been undertaken through:

- consultation on the National Waste Policy, including through a consultation paper and discussion paper;
- publication of a consultation Regulation Impact Statement on policy options to deal with end-of-life computers and televisions;
- ongoing consultation with the computer and television industry associations through a joint government-industry Implementation Working Group;
- ongoing consultation with a wider group of stakeholders concerned with both the Product Stewardship Act and the proposed National Computer and Television Product Stewardship Scheme through separate Stakeholder Reference Groups;
- e-bulletins on the proposed National Television and Computer Product Stewardship Scheme and a subscription service;
- a Customs notice to importers who may be affected by the Product Stewardship Regulations; and
- a consultation paper on the proposed regulations for a National Television and Computer Product Stewardship Scheme (March 2011), which was accompanied by consultation sessions around Australia.

### **Expected Timetable**

It is anticipated that exposure draft Product Stewardship Regulations will be released in late-August 2011 with the Product Stewardship Regulations coming into force in late 2011.

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***Amendments to the Product Stewardship (Oil) Regulations 2000 to clarify eligibility requirements for product stewardship benefits***

## Description of Issues

The *Product Stewardship (Oil) Regulations 2000* (the **Product Stewardship (Oil) Regulations**) prescribe the eligibility criteria and related administrative requirements for the payment of product stewardship benefits for the recycling of used oil.

Some provisions are ambiguous or impracticable to administer. Amendments are proposed to clarify ambiguities and provide a practicable regulatory regime which can be readily understood and complied with by claimants of product stewardship benefits.

The proposed amendments will also amend two deficiencies in the regulations which allow claims for product stewardship benefits to be made in circumstances which are at odds with the intention of the regulations.

## Consultation Opportunities

The Product Stewardship (Oil) Regulations affect only recyclers of used oil who choose to claim product stewardship benefits. The number of claimants is small.

Consultation on some proposed amendments has already occurred. Further consultation with benefit claimants will be conducted as required.

## Expected Timetable

It is expected that the amendments will be made in late 2011 or early 2012.

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## Ministerial Determination on Voluntary Product Stewardship

### Description of Issues

Part 2 of the *Product Stewardship Act 2011* (the **Product Stewardship Act**) relates to the accreditation of voluntary product stewardship arrangements. Voluntary product stewardship will provide an avenue for encouraging and recognising product stewardship without the need to regulate, and it will also provide assurance to the community that a voluntary product stewardship arrangement is operating to achieve its stated outcomes.

Much of the detail relating to voluntary product stewardship will be set out in a legislative instrument made by the Minister. The legislative instrument will deal with matters, such as who may apply for accreditation, the circumstances in which an application can be made, and who makes application decisions.

## Consultation Opportunities

A consultation paper on voluntary product stewardship is scheduled for release in the second half of 2011. Meetings with relevant stakeholders will also be conducted.

## Expected Timetable

It is expected that the legislative instrument will be in place in early 2012.

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## Potential treaty making action to list alachlor, aldicarb and endosulfan on the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

### Description of Issues

The Rotterdam Convention's Prior Informed Consent (**PIC**) Procedure provides a mechanism for information exchange on certain hazardous chemicals and pesticides to assist countries in making informed decisions before importing these chemicals. The PIC Procedure requires that all Parties ensure informed consent is received before exporting any chemical listed in Annex III. Australia is a Party to the Rotterdam Convention.

Three pesticides, alachlor, aldicarb and endosulfan were listed in Annex III of the Rotterdam Convention at its Fifth Conference of the Parties (**COP 5**) in June 2011. As a consequence of this listing, the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* and the *Customs (Prohibited Exports) Regulations 1958* will need to be amended to include the three chemicals.

In compliance with the Rotterdam Convention, the regulatory amendments would require all potential exporters to obtain a permit from the Department of Agriculture, Fisheries and Forestry before exporting alachlor, aldicarb or endosulfan to other Parties.

### Consultation Opportunities

Consultation on the current status of the three chemicals in Australia was conducted with relevant regulatory agencies prior to COP 5. Currently, there are no products containing alachlor registered for use in Australia. Endosulfan was deregistered in Australia by the Australian Pesticides and Veterinary Medicines Authority on 12 October 2010 with a two year phase out.

The changes will require completion of Australia's treaty making process. When the proposed treaty amendments are tabled to the Joint Standing Committee on Treaties (**JSCOT**) there will be an opportunity for comments on the proposed amendments outlined in the tabled documents.

It is anticipated that consultation with any current users of the three chemicals will be completed through the relevant regulatory agencies in 2011-2012 prior to the treaty making process.

### Expected Timetable

The Rotterdam Convention Secretariat has not formally notified Parties of the date of effect of the listing. When this advice is received the timetable can be determined. Parties will be provided with a deadline for providing their informed consent decisions to the Secretariat. The Secretariat will circulate all decision information to Parties.

The suite of regulatory amendments, if they receive JSCOT approval, may not occur until next financial year (2012-2013).

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## Potential treaty making action for changes to the Stockholm Convention on Persistent Organic Pollutants

### Description of Issues

The Stockholm Convention commits governments to reducing, and where feasible, eliminating the production and environmental releases of persistent organic pollutants (**POPs**), chemicals that are persistent, undergo long range environmental transport, bioaccumulate and are toxic or show adverse effects. Australia ratified the Stockholm Convention in 2004.

The Conference of the Parties (**COP**), at its fourth meeting in May 2009, agreed to list nine new chemicals in the Annexes to the Stockholm Convention for restriction or elimination:

- Chlordecone
- Hexabromobiphenyl
- Pentachlorobenzene
- Lindane
- Alpha hexachlorocyclohexane
- Beta hexachlorocyclohexane
- Tetrabromodiphenyl ether and pentabromodiphenyl ether (**commercial pentabromodiphenyl ether**)
- Hexabromodiphenyl ether and heptabromodiphenyl ether (**commercial octabromodiphenyl ether**), and
- Perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride (**PFOS**).

For 151 parties, the treaty amendment adding the nine chemicals to Annexes A, B and C came into force on 26 August 2010. For Australia, an amendment to the Annexes only enters into force upon Australia's ratification of that amendment.

Only two of these chemicals are still used in Australia – lindane and PFOS.

Lindane was deregistered on 7 June 2010 at the request of the registrant. It was previously sold under permit to treat symphylids in pineapples in Queensland. Farmers may have some residual stocks and these can be used until 7 June 2012. Lindane was deregistered for general use in 1985.

PFOS is used in a wide variety of applications. There are allowances available under the COP decision to enable continued use of PFOS for certain essential uses. PFOS may also be present in consumer articles currently in use such as carpets and some fabrics. These aspects will be explored during the domestic treaty-making process.

Pentabromodiphenyl ether and octabromodiphenyl ether, which are brominated flame retardants, have been phased out in Australia over the past 5–10 years but may still be present in consumer articles currently in use, such as some, but not all, electrical and electronic equipment, mattresses, and foam cushions such as those used in furniture and car seats. Some obligations may arise for disposal when the articles in use at the time of ratification then become waste. This will be considered in detail as part of the domestic treaty-making process.

The COP at its fifth meeting in April 2011 agreed to add the pesticide endosulfan to Annex A of the Stockholm Convention. Endosulfan was deregistered in Australia by the Australian Pesticides and Veterinary Medicines Authority on 12 October 2010 with a two year phase out. For this reason the Office of Best Practice Regulation confirmed that the change would be machinery in nature and a Regulation Impact Statement is not required for Australia's ratification of the addition of endosulfan to the Stockholm Convention.

### **Consultation Opportunities**

Consultation, including preparation of a Regulation Impact Statement, was conducted prior to the fourth meeting of the COP in 2009 where there was agreement to listing of the nine additional chemicals.

Further consultation has commenced as part of the domestic treaty-making process.

A further Regulation Impact Statement will be drafted that will analyse the implementation options for ratifying the listing of the 9 additional chemicals. As part of the treaty making process a National Interest Analysis must also be prepared. When any proposed treaty amendments are tabled to the Joint Standing Committee on Treaties there will be an opportunity for comments on the proposed amendments outlined in the tabled documents.

### **Expected Timetable**

The draft Regulation Impact Statement is expected to be released for comment in 2011-12 financial year but the full treaty process may not be completed this financial year.

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## Parks

### Management Plans for the Commonwealth reserves of Booderee National Park, Australian National Botanic Gardens, Christmas Island National Park and Pulu Keeling National Park

Development of Management Plans for the Commonwealth reserves of Booderee National Park, Australian National Botanic Gardens, Christmas Island National Park and Pulu Keeling National Park (collectively the **Management Plans**).

#### Description of Issues

It is proposed that Management Plans are to be developed describing how these areas will be managed for a 10 year period, which may include natural and cultural heritage management, visitor management and approved commercial activities in the reserve. The Management Plans may continue the restrictions and allowances described in the previous plans of management for each location. The Management Plans must apply the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (**EBPC Act**) and associated regulations.

#### Consultation Opportunities

A notice is published in the Australian Government gazette, local press and a nationally circulated newspaper, seeking comments from stakeholders and the public towards the creation of the draft Management Plans (a “have your say” process). Consultation meetings are held with relevant stakeholders where appropriate.

Once a draft Management Plan is approved for release, a notice will be published in the Australian Government gazette, local press and a nationally circulated newspaper, seeking comments on the draft Management Plan from stakeholders and the public.

Draft Management Plans will be made available on the internet and in hard copy, and comments from the public and stakeholders may be incorporated into the final Management Plans where considered appropriate.

#### Expected Timetable

The Management Plans normally take approximately 18 months to develop and have the following steps (outlined below for each plan).

### ***Booderee National Park***

- Notice seeking comments to create a draft Management Plan were published in October 2008. The public comment period closed in November 2008.
- The draft Booderee National Park Management Plan has been released for public comment. It is available at: <http://www.environment.gov.au/parks/publications/booderee/draft-plan.html>. The Booderee National Park Management Plan is not expected to have a significant impact on visitor activities in the park or a significant financial impact on business or individuals.
- Public notice seeking comments on the draft plan was placed in the gazette, press and internet once the draft plan was published. The comment period closes on 2 August 2011.
- The final Booderee National Park Management Plan is expected to be published by early 2012.

### ***Australian National Botanic Gardens***

- Notice seeking comments to create a draft Management Plan were published in December 2008. Comments closed in February 2009.
- The draft Australian National Botanic Gardens Management Plan is expected to be published in 2011. The Australian National Botanic Gardens Management Plan is not expected to have a significant impact on visitor activities in the park or a significant financial impact on business or individuals.
- Public notice seeking comments on the draft plan will be placed in the gazette, press and internet once the draft plan is published. The comment period will be open for 30 days (minimum).
- The final Australian National Botanic Gardens Management Plan is expected to be published by mid 2012.

### ***Christmas Island National Park***

- Notice seeking comments to create a draft Management Plan were published in December 2007. Comments closed in February 2008.
- The draft Christmas Island National Park Management Plan is expected to be published in early 2011. The Christmas Island National Park Management Plan is not expected to have a significant impact on visitor activities in the park or a significant financial impact on business or individuals.
- Public notice seeking comments on the draft plan will be placed in the gazette, press and internet once the draft plan is published. The comment period will be open for 30 days (minimum).
- The final Christmas Island National Park Management Plan is expected to be published by mid 2012.

### ***Pulu Keeling National Park***

- Notice seeking comments to create a draft Management Plan were published in November 2009. Comments closed in February 2010.
- The draft Pulu Keeling National Park Management Plan is expected to be released for public comment in early-mid 2011. The Pulu Keeling National Park Management Plan is

not expected to have a significant impact on visitor activities in the park or a significant financial impact on business or individuals.

- Public notice seeking comments on the draft plan will be placed in the gazette, press and internet once the draft plan is published. The comment period will be open for 30 days (minimum).
- The final Pulu Keeling National Park Management Plan is expected to be published by mid 2012.

### ***Kakadu National Park***

- Notice seeking comments to create a draft Management Plan is expected to be published in early-mid 2012. The comment period will be open for 30 days (minimum).
- The draft Kakadu National Park Management Plan is expected to be released for public comment in 2013. The Management Plan is not expected to have a significant impact on visitor activities in the park or a significant financial impact on business or individuals.
- Public notice seeking comments on the draft plan will be placed in the gazette, press and internet once the draft plan is published. The comment period will be open for 30 days (minimum).
- The final Management Plan is expected to be published by mid 2014.

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## **Water**

### **Amendment regulations to improve the operation effectiveness of the *Water Act 2007***

#### **Description of Issues**

A number of amendments are proposed to improve the operation of the *Water Act 2007* (the **Water Act**).

#### ***Addressing gaps in water information provided to the Bureau of Meteorology***

Part 7 of the *Water Regulations 2008* (the **Water Regulations**) which relates to water information has been in effect for more than two years. The Bureau of Meteorology's experience working with the water information collected to date has highlighted areas for improvement to the Water Regulations which would enhance the quality and utility of water information.

Amendments to the Water Regulations are proposed to address gaps in the information currently being provided to the Bureau of Meteorology resulting in:

- better coverage of groundwater information and water markets;
- a more detailed breakdown of data relating to irrigation and urban water;
- the provision of better descriptive information (metadata) to assist in interpreting and analysing the data received; and
- the addition of a new category of water information (*Bulk water management*) to enable the future inclusion of mining companies.

#### ***Clarification and expansion of range of enforceable undertakings***

Section 163 of the Water Act provides for enforcement agencies to accept court enforceable undertakings. However, there is some uncertainty and lack of clarity to the scope of these undertakings. Regulations made under section 163 of the Water Act are proposed to address this issue.

The proposed regulations would clarify the existing law and expand the current range of enforceable undertakings that can be accepted by enforcement agencies under the Water Act.

### **Consultation opportunities**

The Department intends to consult with relevant stakeholders including states and territories, water and catchment management authorities, environmental and irrigation groups on the development of these amendments as relevant. This consultation is likely to occur in late 2011/early 2012.

### **Expected timetable**

The proposed amendments are in various stages of development with timeframe yet to be determined. If the Minister determines to make these amendments, it is likely these amendments will be made in early to mid 2012.

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## ***Amendments to the Murray-Darling Basin Agreement (Schedule 1 to the Water Act 2007) and Water Regulations 2008***

### **Description of issue**

The amendments to the Murray-Darling Basin Agreement (the **MDB Agreement**) are intended to improve the management of water resources in the Murray-Darling Basin (the **Basin**) in particular, the shared water resources of the River Murray System may be proposed.

### ***Review of the MDB Agreement***

The governments of the Basin, through the Basin Officials Committee initiated a review of the MDB Agreement in April 2010. An inter-jurisdictional taskforce has been established to undertake this review, chaired by the Australian Government (the **Taskforce**). A number of issues with the MDB Agreement, including codification of River Murray operational rules and problems and anomalies with environmental asset management and water accounting arrangements have been identified to date. Options for addressing these issues are being considered by the Taskforce with mechanisms to improve and amend the MDB Agreement to be identified.

In addition, minor and administrative amendments, which do not change the intent of the MDB Agreement but address previous drafting errors and omissions and provide points of clarification, are also planned.

### ***Amendments due to variation of the Snowy Water Licence***

Variation of the Snowy Water Licence 2002, made under the *Snowy Hydro Corporatisation Act 1997* (NSW), has been proposed by the New South Wales Office of Water. The proposed variation will impact upon water availability and sharing arrangements for NSW, Victoria and South Australia under the MDB Agreement. Amendments to the MDB Agreement will be

required to ensure the changes to the Snowy Water Licence 2002 are appropriately reflected in the MDB Agreement.

In addition, section 21(6) of the *Water Act 2007* (the **Water Act**) requires the Basin Plan made under the Act not to be inconsistent with the Snowy Water Licence. As such, the variations to the Snowy Water Licence proposed by NSW will result in the *Water Regulations 2008* (the **Water Regulations**) also requiring amendment.

### **Consultation opportunities**

The following consultation opportunities will be provided:

#### ***Review of the MDB Agreement***

The Taskforce is in the process of refining the scope of the Review and when consultation with Basin jurisdictions, as well as with key stakeholders, will take place as proposed amendments are prepared for recommendation to the Basin Officials Committee in the first instance.

#### ***Amendments due to variation of the Snowy Water Licence***

The NSW Office of Water invited public submissions on the proposed variation of the Snowy Water Licence during the period 8 June to 15 July 2011. Public submissions will be considered by the NSW Office of Water in finalising the variation.

### **Expected timetable**

The proposed amendments are in various stages of development with detailed timeframes yet to be determined.

#### ***Review of the MDB Agreement***

The Review of the MDB Agreement is in the preliminary stages of identifying key issues and resolutions; it is due to be completed in late 2012. Amendments to the MDB Agreement are unlikely to be considered before the completion of the review.

#### ***Amendments due to variation of the Snowy Water Licence***

The proposed variation of the Snowy Water Licence is likely to be confirmed in late 2011, with amendment to the Water Regulations as a consequence of this variation to be pursued subsequently.

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## **Development of Basin Plan as required under the *Water Act 2007***

### **Description of Issues**

The *Water Act 2007* (the **Water Act**) requires that the Murray-Darling Basin Authority (the **MDBA**) to develop a Basin Plan to guide the integrated and sustainable management of Murray-Darling Basin (the **Basin**) water resources.

The Basin Plan will identify, and seek to protect and restore key environmental assets within the Basin and take into account the impact of this protection and restoration on communities, industries and the broader economy.

The Basin Plan will include, as required under the Water Act:

- limits on the amount of water (both surface water and groundwater) that can be taken sustainably from Basin water resources;
- identification of risks to Basin water resources, and strategies to manage those risks;
- the requirements for state water resource plans in order for them to be accredited or adopted under the Water Act;
- an environmental watering plan;
- a water quality and salinity management plan;
- rules regarding trading of water rights in Basin water resources;
- a compliance method; and
- a monitoring and evaluation program.

Once developed, the Basin Plan will be given to the Minister for Sustainability, Environment, Water, Population and Communities for consideration. As the Basin Plan will be a legislative instrument, the Minister has responsibility for the adoption and tabling of the Basin Plan in Parliament.

### **Consultation opportunities**

In mid-late 2011 a proposed Basin Plan and supporting documentation will be released for public comment. The release of these documents will begin a formal consultation period of a minimum of 16 weeks.

### **Expected timetable**

The proposed Basin Plan and supporting documents will be released for public consultation in mid-late 2011. Following public consultation, the revised proposed Basin Plan will be given to the Murray–Darling Basin Ministerial Council for comment. After the Ministerial Council, the Basin Plan will be given to the Minister for Sustainability, Environment, Water, Population and Communities for consideration, adoption and tabling in Parliament.

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## **Possible amendments to the water market and termination fee rules**

### **Description of issue**

Some technical issues have arisen in the implementation of the *Water Market Rules 2009* and the *Water Charge (Termination Fees) Rules 2009*. The former Minister for Climate Change, Energy Efficiency and Water, Senator the Hon Penny Wong, asked the Australian Competition and Consumer Commission (**ACCC**) for advice on a number of possible amendments to the rules to address these technical issues.

The purpose of considering these rule amendments is to ensure that the rules operate as originally intended.

### **Consultation opportunities**

The ACCC provided its final advice on a number of possible amendments to the water market and termination fee rules to the former Minister in March 2010. In developing its advice, the ACCC engaged in consultation with stakeholders. The ACCC received seven written submissions in response to notices announcing the Minister's request for advice on proposed amendments in October 2009. The ACCC received ten submissions in response to draft advice and draft amendments which were released in December 2009.

If the Minister decides to amend the rules then there will be a four week public notice period before amendments are made. The public notice would be placed in a nationally circulating newspaper and, for each Basin State, in a newspaper with an agribusiness focus circulating in the Basin State.

### **Expected timetable**

The Minister has not decided whether to proceed with making rule amendments.

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## **Possible legislative amendments following the COAG review of the National Water Commission**

### **Description of issue**

The *National Water Commission Act* (the **NWC Act**), which established the National Water Commission (**NWC**), expires on 30 June 2012. The NWC Act also requires a review of the NWC be conducted by the end of 2011. The outcomes of COAG consideration of the review may require legislative change.

### **Consultation opportunities**

None.

### **Expected timetable**

If the Commonwealth decides to make any legislative amendments out of COAG consideration of the review, it is expected these would be in place before 30 June 2012.

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## Operating rules relating to the Commonwealth Environmental Water Holder (CEWH) purchasing, disposing of or otherwise dealing in water and water access rights

### Description of issues

The *Water Act 2007* (the **Water Act**) allows the Commonwealth Environmental Water Holder (**CEWH**) to exercise any powers of the Commonwealth to purchase, dispose of and otherwise deal in water and water access rights, water delivery rights or irrigation rights. The Water Act also establishes the CEWH's ability to enter into contracts or options contracts. These clauses establish water trading as part of the CEWH's management functions.

The CEWH may only dispose of seasonal allocations and/or entitlements if:

- these are not required to meet environmental objectives in a given water accounting period and cannot be carried over to the next accounting period—s. 106(1); or
- the proceeds of the disposal are used to purchase other seasonal allocations and/or entitlements that improve the capacity of the holdings to meet environmental objectives—s. 106(2).

The Water Act provides for the Minister to make operating rules relating to the CEWH purchasing, disposing of or otherwise dealing in water and water access rights (section 109). These operating rules may also relate to the making of contracts, including options contracts.

In making operating rules, the Minister cannot impose obligations on anyone other than the CEWH or override or limit the operation of a state law. As the Revised Explanatory Memorandum to the Water Act makes clear the operating rules are to establish the general framework within which the CEWH operates, rather than providing specific direction on individual entitlements or contracts.

### Consultation opportunities

The CEWH intends to consult with stakeholders on the operating rules as they are being developed. This consultation is likely to occur in early 2012.

### Expected timetable

It is expected that the operating rules will be enacted in mid 2012.

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## Determination by Minister under *Water Efficiency Labelling and Standards Act 2005* to amend requirements for clothes washing machines under the Water Efficiency Labelling and Standards (WELS) Scheme

### Description of Issues

In July 2010, the Environment Protection and Heritage Council (**EPHC**) agreed to include in the WELS Scheme a minimum water efficiency standard for clothes washing machines, along with labelling of the water consumption of the dryer cycle of combination washer/dryers. Its intention was that these changes to the WELS Scheme take effect from 1 October 2011.

The determination by the Minister will:

- set a minimum water efficiency standard for clothes washing machines; and
- introduce labelling under the WELS Scheme for combination washer/dryers.

The minimum water efficiency standard for clothes washing machines will be 2.5 stars for machines with a capacity of <5kg and 3 stars for machines with a capacity of 5kg or more. This will result in the most water-inefficient clothes washing machines being de-registered and thus illegal for sale at the completion of a one year period of grace (i.e. on 30 September 2012).

The introduction of labelling under the WELS Scheme of the dryer cycle of combination washer/dryers is intended to better inform consumers about the water use of the drying mode of these machines.

Registrants and suppliers of WELS Scheme products will be affected by these changes to the WELS Scheme, as they will need to ensure that the relevant products are appropriately registered and labelled, and that those not meeting the minimum water efficiency standard will have to be removed from the market before completion of the 12-month 'grandfathering' period.

### Consultation opportunities

The EPHC decision in July 2010 to amend the WELS Scheme standard for clothes washing machines was made taking into account the outcomes of a regulatory impact assessment process, which took place in late 2009 to early 2010 and included a public comment period on a regulatory impact statement.

In June 2011, these suggested changes were reflected in amendments to an Australian Standard, AS/NZS 6400 *Water Efficient Products*. This amendment to the standard went through the normal Standards Australia consensus processes, involving consultation with industry and the public.

## Expected timetable

The determination by Minister to incorporate the amended standard into the WELS Scheme is expected to be made in September 2011 and to commence in October 2011.

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## Response to the five-year independent review of the Water Efficiency Labelling and Standards Scheme including amendments to the *Water Efficiency Labelling and Standards Act 2005*

### Description of issues

The five-year independent review of the Water Efficiency Labelling and Standards (**WELS**) Scheme was completed mid 2010 and made a wide range of recommendations for changes to the WELS Scheme. An interim response from the Commonwealth, state and territory governments has been released, and a final response is in preparation.

It is expected that implementing the response will involve substantial changes to the WELS Scheme, including amendments to the *Water Efficiency Labelling and Standards Act 2005* (the **WELS Act**).

Key matters expected to be addressed include the governance and cost recovery arrangements for the WELS Scheme. Amendments to the WELS Act under consideration in response to the findings of the independent review include, among other matters:

- the introduction of additional offences and penalties;
- changes to the existing offences under the WELS Act;
- the introduction of civil penalties;
- removal of the requirement to publish decisions in the Commonwealth of Australia Gazette;
- simplification of product registration processes; and
- introduction of improved grandfathering provisions.

The purposes of the changes to the WELS Scheme are to improve its efficiency, effectiveness, and its ability to achieve the objectives of the WELS Act.

All registrants and suppliers of WELS Scheme products are likely to be affected by the changes to the WELS Act, however, as these matters are currently under consideration and a final response to the review has not been made, the exact nature of changes to the WELS Scheme are as yet uncertain.

### Consultation opportunities

The five-year review of the WELS Scheme involved substantial consultation with stakeholders, including through a discussion paper, written submissions process, and meetings with key interested parties.

It is expected that a consultative process, including a regulatory impact assessment, will occur to allow informed input from stakeholders on these matters. Consultations are likely to occur late in 2011, with a view to legislation being passed and ready to implement by mid 2012. The WELS Advisory Group of stakeholders is also consulted on these matters.

### **Expected timetable**

- WELS Scheme five year independent review report was tabled in Parliament on 13 October 2010
- Release of consultation Regulation Impact Statement or similar - late 2011
- Introduction of legislation – March 2012
- Implementation of changes to WELS Scheme – 1 July 2012

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