

# CHAPTER 3

## ISSUES

### Overview

3.1 Overall, these Bills represent a positive move to simplify what has become a complex system of levying taxation on fuels. The Bills will, if passed, bring positive benefits to many industry sectors that are currently subject to fuel excise, and for the most part, the Committee supports the reform initiatives that the Bills contain.

3.2 A clear intent of the Bills is to reduce fuel taxation on many of Australia's wealth-producing industries, which should assist them to become more internationally competitive. As the Explanatory Memorandum for the Bills points out, businesses involved in manufacturing, quarrying and construction will become entitled to fuel tax relief. Primary production, mining and commercial power generation will also become entitled to fuel tax relief.<sup>1</sup>

3.3 However, there are a number of issues arising in the Bills that on the basis of the evidence received, appear to be anomalous, and which require clear resolution before the Bill is enacted. The Committee cautions that the time allowed for its inquiry was unduly short. It has therefore been difficult to determine whether the issues the Committee raises in the following sections are unintended consequences, the result of misunderstandings about how the legislation will work on the part of fuel users and manufacturers, or deliberate policy decisions. The major issues of concern that were raised during the Committee's inquiry were as follows:

- the effects on cash flow and working capital arising from the requirement to remit fuel tax in relation to fuel tax exempt activities, particularly on manufacturers who use hydrocarbons in the production process, not as fuel;
- the effects of the reforms on oil recyclers; and
- the effects of the reforms on the future of the biofuels industry.

3.4 The Committee also examined several secondary issues which were raised in evidence, including:

- the effects of the abolition of the Fuel Sales Grants scheme on fuel prices for motorists in remote areas; and
- requirements to participate in the Greenhouse Challenge Program.

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1 Explanatory Memorandum (EM), p. 3.

## **The effects on cash flow and working capital**

3.5 These Bills introduce a single system of fuel tax credits, replacing the current Energy Grants (Credits) Scheme, Fuel Sales Grant Scheme and the States-administered Petroleum Products Freight Subsidy Scheme. The Committee has received submissions and evidence claiming that the new fuel tax credit system will impact on businesses as follows:

- some businesses previously not required to will now be required to pay excise up-front;
- the delay between paying for excise and claiming it back through Business Activity Statements (BAS) will have a detrimental effect on business cash flows, and require some businesses to have a higher level of working capital; and
- the cost of compliance will increase for some businesses.

### ***Paying excise upfront***

3.6 Under the existing system, the majority of businesses pay excise up-front and then claim it back.<sup>2</sup> However some businesses, and in particular those which use hydrocarbons for non-fuel manufacturing processes, such as solvent and paint manufacturers, are exempt from paying excise on their fuel purchases. Remission, refund and rebate provisions exist in the *Excise Act 1901* and the *Customs Act 1901*. The Explanatory Memorandum explains:

A remission is a mechanism that allows holders of a remission certificate to obtain prescribed fuel products fuel tax-free for use in prescribed circumstances. Remission and refunds commonly relate to solvent and burner fuel applications, kerosene for some specific fuel uses, and diesel and petrol substitutes for non-fuel users.<sup>3</sup>

3.7 The Explanatory Memorandum states:

Concessions, refunds and remissions currently delivered through the excise and customs system for the use of fuel other than fuel in an internal combustion engine, will be replaced by fuel tax credits.<sup>4</sup>

3.8 The use of potential fuels for non-fuel purposes in industries such as paint manufacture will continue to be fuel tax free, but the way in which this will be achieved will change. Such businesses will be required to remit fuel tax but will be able to claim it back through the BAS system, as described below.

3.9 Mr Michael Hambrook, Executive Director of the Australian Paint Manufacturers' Federation Inc (APMF) was among several who raised concerns that it

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2 *Proof Committee Hansard*, 5 June 2006, p. 76. (Mr Colmer)

3 EM, p. 10.

4 EM, p. 3

will soon be necessary to pay excise on solvents used in the manufacture of paints, whereas:

There is currently no excise duty payable on those solvents because, as I said, they are turned into cans of paint....<sup>5</sup>

3.10 Manufacturers of paint and other solvent based products argue that this will increase their production costs, which they maintain they can ill afford to absorb.

3.11 The APMF submission encapsulated the views of many, telling the Committee that the industry is not in a position to absorb increased production costs:

The industry is now several years into a cycle of rising costs and falling sales. The price of solvents and tin plate has more than doubled in the past year. Sales have declined for 3 years in a row while the 2005 total production figure of 213 million litres is less than the 224 million litres produced in 1994. Against this background imports are rising steadily with 2005 figures up 7% over 2004. If this proposal goes through, Australian paint manufacturers will suffer:

- a significant cash flow disadvantage
- a significant increase in record keeping and accounting processes
- a loss of competitive advantage over imported paint which will not be affected by this legislation.<sup>6</sup>

3.12 Mr Hambrook, reinforced the point that the changes represented an impost the industry could ill afford:

The point I simply make there is that this is not a rich and affluent industry, so when additional costs get lobbed onto the industry, particularly the small to medium sized businesses, that is really going to hurt them. These are the guys who until now have not had this as a worry on their books at all. But now they are doing their quarterly BAS, they have to churn out the money to pay for the solvent within a few days of receiving the solvent, and they will not get it back for two or three months.<sup>7</sup>

3.13 The Committee questioned Treasury officers about why the fuel tax credit system would require businesses such as paint manufacturing companies to now pay fuel excise upfront rather than through the existing remission, refund and rebate system. Mr Tony Free, Manager, Excise Unit, Indirect Tax Division of Treasury said that, under the fuel tax credit scheme, as long as a fuel product is used it will be excisable:

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5 *Proof Committee Hansard*, 5 June 2006, p. 16.

6 Australian Paint Manufacturers Federation, *Submission 2*, pp. 1-2.

7 *Proof Committee Hansard*, 5 June 2006, p. E16.

They have taken a product that is fuel, that has fuel tax applied to it and that is in many cases an actual ingredient of fuel—in some cases, such as kerosene, it is directly fuel. So the opportunity has been taken to align them with the fuel tax credits system as is the case for all users of fuel.<sup>8</sup>

### ***Claiming excise through Business Activity Statements***

3.14 Submissions raised concerns that the introduction of the fuel tax credit system will have a significant impact on the cash flow of businesses. The Explanatory Memorandum states that the fuel tax credit will be claimed by business entities on their Business Activity Statement (BAS) and will be offset against an entity's other tax liabilities<sup>9</sup>.

3.15 The seller of the product includes the cost of excise component in the total price charged to the buyer and remits this to the Australian Taxation Office as is the case currently. Where the product is free of fuel tax, the equivalent of the fuel tax is recovered by the seller when it claims a fuel tax credit at the time of lodging a BAS.

3.16 The Australian Paint Manufacturers' Federation Inc (APMF) expressed concern about the length of time between paying the fuel excise and claiming it back through the BAS.<sup>10</sup> The Federation estimate that the average length of time that its members will have to carry the tax during the course of the financial year to be 65 days.

3.17 Submissions also expressed concerns about the significant increase in working capital that would be required as a result of the time difference between paying fuel excise and claiming it through the BAS.<sup>11</sup> Mr David Pilkington, Industrial Manager, Recochem Inc. noted that:

We currently remit excise weekly and we see that in future or during the transition we would be able to claim that excise back weekly. That is the only way that we would take no impact. Otherwise, we are talking about an

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8 *Proof Committee Hansard*, 5 June 2006, p. 80.

9 EM, p. 24

10 Australian Paint Manufacturers' Federation Inc, *Submission 2*, p. 3

11 Australian Paint Manufacturers' Federation Inc, *Submission 2*; Recochem Inc, *Submission 3*; Chemical House Pty Ltd, *Submission 5*; Paints 'n' More Pty Ltd, *Submission 6*; Bituminous Products Pty Ltd, *Submission 8*; Vital Chemicals Pty Ltd, *Submission 9*; Auschem (NSW Pty Ltd), *Submission 10*; TAC Adhesives, *Submission 11*; NSW Farmers' Association, *Submission 14*; GSB Chemical Co Pty Ltd, *Submission 15*; ACCORD Australasia Limited, *Submission 16*; Catalyst Chemicals Pty Ltd, *Submission 17a*; Transpacific Industries Group Ltd, *Submission 20*; AgForce Queensland Industrial Union of Employers, *Submission 22*; Australasian Solvents and Chemicals Company Pty Ltd, *Submission 27*; Australian Oil Recyclers Association Limited, *Submission 30*; The Australian Chamber of Commerce and Industry, *Submission 31*; Plastics and Chemicals Industries Association, *Submission 32*

impact of a substantial sum of money of extra working capital for ourselves in the region of \$700,000.<sup>12</sup>

3.18 The National Farmers' Federation (NFF) also expressed concerns about the impact that claiming through the BAS would have on its members:

These changes have the potential of leaving some farm businesses out of pocket for a considerably longer period than under the current e-Grant or Energy Credits Grants Scheme claiming arrangements, resulting in real costs for Australian Farm businesses.<sup>13</sup>

3.19 The Australian Trucking Association (ATA) expressed similar concerns:

The ATA has been advised by members the new restriction of only being able to claim excise credits through the BAS will create adverse cash flow consequences for the many small operators who lodge their BAS statements only every three months or even longer.

The ATA believes the extra cost involved and the administrative burden placed upon small business to lodge their BAS statements monthly simply to claim the fuel grant is problematic. What will result is a slowdown of cash flow that will affect the viability of operators.<sup>14</sup>

### ***Transition period announced by the Minister***

3.20 The Minister for Revenue and Assistant Treasurer, the Hon. Peter Dutton MP, announced on 1 June 2006 that a two year transition period will be introduced to assist businesses in the move to claiming fuel tax credits through the Business Activity Statement.<sup>15</sup> The Minister said:

Following discussions with the National Farmers Federation, the Australian Trucking Association and fishing and paint manufacturing industries, the Government has proposed a two year transition measure to help claimants of fuel tax credits get in tune with the new system.

...This two year transitional period will allow businesses to align their practices to the new arrangements so that by 1 July 2008 all fuel users who make claims will be aware of how the new system works and come on board.<sup>16</sup>

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12 *Proof Committee Hansard*, 5 June 2006, p. 13.

13 National Farmers' Federation, *Submission 18*.

14 Australian Trucking Association, *Submission 19*.

15 Minister for Revenue and the Assistant Treasurer, The Hon. Peter Dutton, MP, *Press Release* No. 034, 1 June 2006.

16 Minister for Revenue and the Assistant Treasurer, The Hon. Peter Dutton, MP, *Press Release* No. 034, 1 June 2006.

3.21 Mr Pilkington argued that while the transitional arrangements announced by the Minister for Revenue and Assistant Treasurer are a good start, it is necessary to ensure that cash flow problems would not occur again beyond the transitional period.<sup>17</sup>

3.22 The Australian Chamber of Commerce and Industry (ACCI) expressed similar concerns:

I am not convinced that two years is going to make everything fine. With the inclusion of the two-year transitional period, these businesses will still have to pay for fuel with excise; they will have to pay 38c a litre more for fuel and they will have to claim it back through a separate process. So both their cash flow and compliance costs will go up, but not by as much as they will at the end of the two-year period. So it is better than nothing, but I do not think is a vast improvement.<sup>18</sup>

3.23 The NFF expressed its concern about a lack of flexibility for claiming fuel credits.<sup>19</sup> Mr Ben Fargher, Chief Executive Officer, NFF told the Committee that while the NFF supports the Bills, its membership has raised concerns in relation to the eGrant system.<sup>20</sup> The Committee notes that the ability to claim excise through the eGrant system will be retained during the two year transition period announced by the Minister for Revenue and the Assistant Treasurer<sup>21</sup>.

3.24 The Committee also notes that Mr Colmer of the Treasury provided evidence that the eGrant system is not widely used:

I must say that some of the claims seem a little overstated to us. We are aware, for example, that very few farmers use eGrant and very few farmers claim particularly frequently under the existing scheme. Some of the cases that are put up for the cash flow argument have been chosen to maximise the impact and they are not necessarily representative of the reality of the situation as far as we can see.<sup>22</sup>

3.25 Further evidence provided by the Treasury indicates that at present only 312 agricultural claimants currently use the eGrant system.<sup>23</sup>

3.26 Mr Colmer of the Treasury told the Committee that the majority of people under the existing system pay the excise up front and then claim it back under a

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17 *Proof Committee Hansard*, 5 June 2006, p. 13.

18 *Proof Committee Hansard*, 5 June 2006, p. 72. (Mr Potter)

19 National Farmers' Federation, *Submission 18*.

20 *Proof Committee Hansard*, 5 June 2006, p. 61.

21 Minister for Revenue and the Assistant Treasurer, The Hon Peter Dutton, MP, *Press Release No. 034*, 1 June 2006.

22 *Proof Committee Hansard*, 5 June 2006, p. 76.

23 Treasury, *Additional Information*.

specific, separate process<sup>24</sup>. Further, the cash flow of 19.44% of clients could be affected by claiming excise through their Business Activity Statements, but that the majority, 80.56% of clients would not be affected.<sup>25</sup>

3.27 The Committee welcomes the announcement of the two year transition period and considers that it will substantially relieve the concerns raised by the witnesses.

### ***Compliance costs***

3.28 The Explanatory Memorandum states:

The fuel tax credit system will lower compliance costs, reduce tax on business and remove the burden of fuel tax from thousands of individual businesses and households.<sup>26</sup>

3.29 The Australian Chamber of Commerce and Industry (ACCI) expressed concern that the Bills will increase compliance costs for those businesses who will have to pay excise for the first time:

They will need to keep much more detailed records of fuel purchases, implement new accounting procedures to claim the excise back and ensure that claims are included in BAS returns.<sup>27</sup>

3.30 The ACCI suggests that the continuation of the eGrant system will reduce both compliance and cash flow costs.<sup>28</sup> The level of use of the eGrant system by businesses is discussed above.

### ***Committee's views***

3.31 The Committee is of the view that the two-year transition period announced by the Minister for Revenue and Assistant Treasurer will allow most businesses adequate time to arrange their affairs to align with the new system.

3.32 The Committee continues to hold some concerns however about the impact in the longer term of the legislation on those manufacturers who currently pay no excise because their use of hydrocarbons is excise exempt. For them, the introduction of the Fuel Tax legislation will entail some extra costs.

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24 *Proof Committee Hansard*, 5 June 2006, p. 76.

25 *Proof Committee Hansard*, 5 June 2006, p. 77.

26 EM, p. 5.

27 The Australian Chamber of Commerce and Industry, *Submission 31*, p. 3.

28 *Proof Committee Hansard*, 5 June 2006, p. 69.

## Recommendation

**3.33 The Committee recommends that during the transition period announced by the Minister, the Government re-examine the effects of the legislation on manufacturers who use hydrocarbons for non-fuel manufacturing processes, with a view to minimising and offsetting any adverse effects.**

## Effects of the reform package on oil recyclers

3.34 The Committee received submissions and evidence from a number of oil recycling companies who expressed concern about the effect the Bills would have on their businesses.

3.35 A range of companies in this industry collect and process more than 200 million litres of used oil (including sump oil from engines and transmissions, hydraulic oil, and a wide range of other industrial oils) annually. This however does not represent the full amount of oil that could be recycled. As noted on the Government's Product Stewardship for Oil website:

...between 60 and 100 million litres remains unaccounted for.

We don't know what happens to this 'missing oil'. However, anecdotal evidence suggests it could be:

- Sitting in temporary stockpiles (eg in the garage or shed);
- Retained in waste or scrap equipment (such as vehicles);
- Lost to the environment at collection points (eg leaking, spills etc).
- Put out for household rubbish collection; or
- Illegally dumped (in parks and reserves or in waterways, sewer systems and stormwater drains).<sup>29</sup>

3.36 Recyclers may clean up the oil through a variety of methods ranging from dewatering and filtration, through to distillation in more sophisticated operations. The product is generally sold as a burner fuel in applications such as firing brick or timber drying kilns, heating poultry sheds etc.

3.37 The salvage and re-use of waste oil has significant environmental benefits, as at least a proportion of this oil, which may be high in sulphur and contaminated with heavy metals, may otherwise be dumped, or stored inadequately, leading to contamination of soils and water supplies.

3.38 There are a range of incentives provided to oil recyclers under the Product Stewardship for Oil program. This program was introduced in 2001 by the Australian

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29 From Department of Environment and Heritage website, at <http://www.oilrecycling.gov.au/program/index.html>



Government to provide incentives to increase used oil recycling. The arrangements comprise a levy-benefit system, where a 5.449 cent per litre levy on new oil, funds benefit payments to used oil recyclers. The program is administered by the Department of the Environment and Heritage and aims to encourage the environmentally sustainable management and re-refining of used oil and its re-use.<sup>30</sup>

3.39 The benefits payable to recyclers are as follow:

<b>Category</b>	<b>Benefit (cents/litre)</b>
1. Re-refined base oil (for use as a lubricant or a hydraulic or transformer oil) that meets the specified criteria	50
2. Other re-refined base-oils (eg chain bar oil, oils incorporated into manufactured products)	10
3. Diesel fuels to which the <i>Excise Tariff Act 1921</i> applies	7
4. Diesel extenders (filtered, de-watered and de-mineralised)	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 (reprocessed or filtered, but not re-refined)	0
8. Gazetted oil consumed in Australia for a gazetted use	5.449
9. Recycled oil mentioned in item 5 or 6 that has been blended with a petroleum product that meets the criteria mentioned in Schedule 2.	9.557

3.40 Most of the companies in this industry are small to medium sized businesses, with the exception of Transpacific Industries, which is a national company.

3.41 Mr Pullinger of the Australian Oil Recyclers Association (AORA) told the Committee that the proposed changes would threaten the future of the industry:

From a social perspective, the industry employs in excess of 400 people directly in all states of Australia. Nearly all of these people are employed in small- to medium-sized enterprises. They collect used oil in capital cities but, more importantly, in rural, regional and remote areas of Australia.

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30 From Department of environment and Heritage Website, at <http://www.oilrecycling.gov.au/program/index.html>

The changes to the Excise Act as currently proposed will severely affect the ability and viability of oil recyclers and collectors to survive in business and to continue and collect trade in used oil. It will also put in jeopardy the government's goal and strategy of taking used oil out of the environment.<sup>31</sup>

3.42 Several aspects of the Bills appear to be of concern to this industry. In common with many of the other groups that made submissions to the inquiry, the major issue appears to be the increased cash flow requirements imposed by the imposition of excise on the supplied product. Also of major concern are expected difficulties in selling the product in competition with alternatives such as gas if the price that must be charged rises. This may make the industry less viable and if the fears of the industry are realised, potentially cause some companies to cease operations.

3.43 Suppliers of the product will in future be required to pay excise of 38.143 cents per litre, although this excise is to be recovered under the proposed fuel tax credits scheme, as burner fuels are to be excise exempt. A significant issue, as for other sectors, is the delay in receiving the money back.

3.44 For some sellers of the product, the requirement to add an excise component will add significantly to the price, at least until the excise is recovered, as the product price in some instances is quite low. Mr Pullinger told the Committee that a recycler will sell a filtered, dewatered product for 16.5 cents per litre including GST, but under the new regime the price increases to 58.5 cents per litre.<sup>32</sup> This change may add significantly to cash flow requirements. Mr Grundell of Transpacific Industries told the Committee that:

There are cash flow implications. To give you an idea of the quantum in terms of the Transpacific group, we are currently picking up between 60 and 70 per cent of all the used oil across Australia. Looking at that in isolation, the impost on our business is going to be to the tune of \$800,000 on a weekly basis that we have to fund and find.

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Also, we are effectively more than doubling our debt levels and exposure to the businesses. In terms of a customer becoming insolvent, what hope, if any, do we have of recovering those funds, given they will already have been expended?<sup>33</sup>

3.45 Mr Grundell told the Committee that the increased cost would make it harder to sell the product, calling the viability of the recycling industry into question, as customers could turn to alternative fuels such as coal or gas:

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31 *Proof Committee Hansard*, 5 June 2006, p. 20.

32 *Proof Committee Hansard*, 5 June 2006, p. 20.

33 *Proof Committee Hansard*, 5 June 2006, p. 21.

The markets for recovered or alternative fuels are continually under threat and pressure from gas or coal or a combination of both. We are going to find it increasingly difficult to place material, particularly if it is carrying the burden of 38c a litre excise. We want to bring these things to the attention of the Committee and the public in general to ensure that everybody fully understands the ramifications of these changes to the recycling industry.<sup>34</sup>

3.46 The AORA made a similar point, noting that:

What is worrisome, is that some members have reported the loss of recycled oil sales to customers who will change to burner fuel gas which does not attract excise because they do not want to finance the cost of the \$0.38143 while they wait for a Tax Credit on their BAS.<sup>35</sup>

3.47 Another confidential submission from a new oil recycling company raised the possibility that buyers of its product would turn instead to using untreated sump oil as a fuel source. This is of some concern, as no contaminants such as heavy metals would be removed prior to use; and the oil itself would not meet any of the required standards for fuel oil such as sulphur content.<sup>36</sup>

3.48 The same submission said that the proposed changes to the excise regime would have a major impact on the price it would be forced to charge for its product, which it said was defined as 'specified diesel'. The company told the Committee that its product is free from excise and customers receive a rebate of 30.586 cents per litre under the Energy Grants Credit Scheme. As this scheme is being abolished, the base price of the product rises by 30.586 cents. The cost of the product would more than double. As a burner fuel, the product will be subject to a fuel tax credit, but the producer company will nonetheless have to carry the fuel tax cost of 38.143 cents per litre until it can be recovered. The company said that this situation was unsustainable for it in its current R&D and new technology implementation stage.

3.49 Transpacific also raised concerns that it may also have to pay excise on stockpiled material, and possibly have to wait for between six and twelve months to recover the excise paid, imposing a severe impost on the business.<sup>37</sup>

3.50 The Committee asked Transpacific about the effect of the transitional arrangements announced by the Assistant Treasurer on 1 June 2006. Mr Grundell responded that this would assist the customer, but not the recyclers:

The customer will be able to claim back the excise paid virtually immediately that the material is delivered, and they can then make an adjustment when they do their BAS, be that quarterly or monthly. That is great for the customers, but there is no obligation on them to pay us on our

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34 *Proof Committee Hansard*, 5 June 2006, p. 22.

35 AORA, *Submission 30*, p. 2.

36 *Submission 33* – Confidential.

37 *Proof Committee Hansard*, 5 June 2006, p. 22.

invoices for fuel supply any earlier than is currently the case. So it does not really help the recyclers' cash flows.<sup>38</sup>

3.51 The recyclers also maintain that it is inappropriate to impose excise on their product because this amounts to double taxation, excise already having been paid on the raw material which they re-use.<sup>39</sup>

3.52 The Committee sought comment from Treasury representatives about the oil recyclers' concerns.

3.53 Treasury representatives told the Committee that oil recycling policy is run through the Environment and Heritage portfolio, and in particular the Product Stewardship Oil Program. The representatives said that this was not an appropriate area for tax policy:

We have been saying all along that it is inappropriate for us as a tax policy area to be involved in that area, and we have been withdrawing and that should not be of any surprise.<sup>40</sup>

3.54 Treasury representatives also said that the issues raised by the oil recyclers 'are ones which we actually think are non-existent'. Treasury said that the initiatives in the Bill have 'no specific impact on recycled oil over and above non-recycled oil'<sup>41</sup> and that 'they [the recyclers] face exactly the same cash flow issues as the conventional competition does'.<sup>42</sup>

3.55 Treasury advised that currently, burner fuel users who utilize conventional oil such as diesel pay a 7.557 cents per litre excise which recycled oil users do not pay. This subsidy will disappear under the reforms, although the Government has included in the budget a measure that offsets this difference. As a result, in the first year of the scheme, the recyclers will continue to enjoy a 7.557 cents per litre advantage over their conventional competition.<sup>43</sup>

3.56 Treasury representatives maintained that the oil recyclers had misunderstood what will happen under the reforms:

We have been trying to clarify that their claim that there is going to be a specific impact on them is not correct. It is going to be a more general impact. It is not going to be a specific impact on them as oil recyclers.<sup>44</sup>

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38 *Proof Committee Hansard*, 5 June 2006, p. 23.

39 See AORA, *Submission 30*, p. 2.

40 *Proof Committee Hansard*, 5 June 2006, p. 83.

41 *Proof Committee Hansard*, 5 June 2006, p. 83.

42 *Proof Committee Hansard*, 5 June 2006, p. 84.

43 *Proof Committee Hansard*, 5 June 2006, p. 84.

44 *Proof Committee Hansard*, 5 June 2006, p. 85.

3.57 Questioned by Committee members about whether the recyclers' businesses would suffer as a result of the reforms, Treasury representatives maintained that 'we do not believe that there is going to be an impact that cannot and will not be managed'...'I do not believe that there is any reason why the recyclers are going to disappear'.<sup>45</sup>

3.58 The Committee expresses its concern about the potential impact of these changes on the recycling industry. In the first instance, the Committee considers that there are environmental benefits associated with providing appropriate incentives to encourage such an industry, and it is in the public interest that it be maintained. However, the industry may be less viable if the product is rendered unattractive to buyers because of tax changes increasing the price that producers must charge.

3.59 There is a clear disparity between the evidence and assurances provided by Treasury and the statements made by representatives of the industry. Treasury representatives state that the industry is not threatened and that the concerns expressed are misplaced. This view contrasts markedly with the views of AORA and companies who are affected by the proposed changes, who maintain that the industry is under severe threat. Furthermore, the Committee found the Treasury witnesses to be strikingly unhelpful in addressing the issues raised in the hearings.

3.60 The Committee also observes that the imposition of a 38 cents per litre excise on a low value product appears disproportionate. While it is true that the recyclers' competitors (the major oil companies and gas companies) face similar charges, the value of the product they sell is higher, and their financial strength as large multinational companies must inevitably mean that they are in a much better position to absorb the costs associated with carrying the fuel tax costs than the much smaller recycling companies. Given that the policy intent is that burner fuels in this market are to be free of excise, it is questionable whether either buyers or sellers should have to advance considerable amounts of money in excise that is destined to be fully rebated, as there are inevitably costs and risks associated with carrying this debt, even for a short period.

3.61 The short timeframe allocated by the Senate for this inquiry has not allowed the Committee to resolve the above issues to its satisfaction. If Treasury's assessments are incorrect (and the industry clearly believes that they are), then significant damage may be done to the industry, and a number of companies may be forced to cease trading. The possibility that waste oil will be dumped into landfill or disposed of by other environmentally damaging practices because there is no ready way of disposing of it and no market for it also cannot be discounted on the evidence currently available to the Committee.

3.62 The Committee does not share Treasury's view that it is necessarily inappropriate for tax policy to be involved in the oil recycling area. There are a number of other areas where tax policy has a clear role to play in influencing policy

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45 *Proof Committee Hansard*, 5 June 2006, p. 85.

outcomes, for example in relation to alcohol excise. While the Product Stewardship Oil Program is undoubtedly a significant contributor to encouraging oil recycling, the benefits it pays for the production of burner fuels are not large, and the incentives provided by the existing excise arrangements, however fragmented, unquestioningly play a significant role in determining the attractiveness of the product in the marketplace.

3.63 The Committee therefore considers that in the circumstances, it has no option but to recommend the following in relation to the oil recycling industry.

**3.64 The Committee recommends that:**

- **the Bills be amended to exempt oil recycling companies from the operation of the legislation;**
- **the Government implement an urgent review of the effectiveness of the Product Stewardship for Oil Program, with a particular focus on whether the program will continue to be effective in meeting its objectives following the abolition of the energy grants credits scheme and the implementation of the fuel tax credits system; and**
- **the Minister for the Environment and Heritage initiate a review of disposal requirements applying to used oil, and in particular whether more stringent standards on the use of this material as a burner fuel are appropriate.**

## **Effects on the biofuels industry**

### ***Introduction***

3.65 This reform package contains provisions that may have some impact on the development of a biodiesel industry in Australia. Biodiesel is currently exempt from excise. Taxation of this fuel is to be phased in, commencing on 1 July 2011.

3.66 The rate applicable to biodiesel will be 3.8 cents per litre in 2011, rising to 19.1 cents per litre in 2015.

3.67 Grants are currently available for alternative fuels under the Energy Grants Credits Scheme. These grants are to be gradually phased out between 2006 and 1 July 2010, when they fall to zero. The rates applicable to biodiesel as at 1 July 2006 will be 14.808 cents per litre.<sup>46</sup>

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46 From EM, pp. 15-16.

3.68 A number of aspects of these Bills have caused concern within the biofuels industry. Renewable Fuels Australia summed up the views of a number of submissions, claiming that there had been a lack of policy co-ordination and consistency which has hindered the growth of the biofuels industry:

The Biofuels Taskforce, for example, represents the development of positive policies for new ethanol and biodiesel industry growth, while Fuel Tax Bill 2006 represents a clear example of impediments being put in place that will undermine the achievement of those policy objectives.<sup>47</sup>

### ***Biodiesel***

3.69 The key issue for the biodiesel industry in this legislation appears to be that the payment of a producer grant under the *Energy Grants (Cleaner Fuels Scheme) Act 2004* is taken to have extinguished the fuel tax liability. This means that the purchaser of biodiesel whose producer has received a grant cannot claim a fuel tax credit.

3.70 This situation arises as a result of Subclause 43-5(2) of the Bill, which reads as follows:

(2) The amount of ***effective fuel tax*** that is payable on the fuel is the amount (but not below nil) worked out using the following formula:

*Fuel tax amount - Grant or subsidy amount*

3.71 The Explanatory Memorandum explains the reasoning behind this provision:

#### **Fuel tax credits are based on the effective fuel tax payable**

2.66 The amount of any fuel tax credit payable on fuel is based on the amount of effective fuel tax that is payable on the fuel [subsection 43-5(1)]. The reason for this is that some fuels, for example domestically-produced ethanol and biodiesel, pay fuel tax at the same rate as diesel and petrol, but the amount of fuel tax effectively payable is reduced by a grant under the *Energy Grants (Cleaner Fuels) Scheme Act 2004* or a subsidy paid by the Department of Industry, Tourism and Resources.

...

2.68 The intention, therefore, is that the fuel tax credit is based on the effective fuel tax payable rather than the amount of fuel tax payable on the importation or manufacture of the fuel. For example, biodiesel is currently taxed at 38.143 cents per litre and producers receive a cleaner fuel grant equivalent to the tax on the fuel, making the effective fuel tax zero. As no

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47 Renewable Fuels Australia, *Submission 25*, p. 2.

effective fuel tax has been paid, there is no entitlement to a fuel tax credit for the use of the fuel.<sup>48</sup>

3.72 Several biofuels producers and the the Biodiesel Association of Australia maintain that this change places the biodiesel industry at a competitive disadvantage to conventional diesel fuel.

3.73 The following exchange between the Committee's chair and Mr Humphreys of the Australian Biodiesel group illustrates the nature of the problem as perceived by the industry:

**CHAIR**—But under the new system you would then have to add the cost of the excise to the cost to your customers. Is that right?

**Dr Humphreys**—No. Under the new system, the operative term is 'net tax paid'. And they view the biodiesel grant as an extinguishment of the excise that should have been paid on biodiesel. That is the dislocation problem. The biodiesel producer grant was supposed to allow the stimulus of the industry and to allow producers like ourselves to come into the market and form an industry from nothing. That has obviously been very effective, going by the number of biodiesel plants that are now proposed. I, as Adrian [Mr Adrian Lake] said, am the CEO of the largest biodiesel producer in Australia today. We came into the market because of our perception of the intent of the producer grant. It is the intent that is being distorted.

**CHAIR**—I am not so much concerned about the intent as the effect.

**Dr Humphreys**—It is the effect that is being destroyed. ... As of 1 July... they can no longer claim any excise back on the biodiesel, because it is viewed as net tax zero, because the law, as of 1 July, takes the view that biodiesel has not paid any effective tax.

**CHAIR**—I see: it is because of the producer grant.

**Dr Humphreys**—The producer grant is not being looked at as a producer grant; it is being looked at as an excise offset; hence there is no net tax being paid... hence the farmer can no longer claim tax back. So in one fell swoop it completely closes the door to the biodiesel industry for off-road activity.<sup>49</sup>

3.74 Representatives of the biodiesel industry maintain that if this issue is not addressed, future plans for expansion of the biodiesel industry will be shelved. Mr Lake of the Biodiesel Association of Australia told the Committee that:

...if the bill goes ahead as planned, we will go from nearly a billion litres of biodiesel per annum to a situation within the next two to three years where

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48 EM, p. 38.

49 *Proof Committee Hansard*, 5 June 2006, p. 33-4.



we will be lucky to keep the couple of hundred million litres that are coming online now.<sup>50</sup>

3.75 The Biodiesel Association argued that the effect of the buyer of biodiesel not being able to claim back the fuel tax component is that biodiesel will go from having a slight price advantage over conventional diesel to having a disadvantage. The Association recirculated a table at the public hearing which illustrated how the relative price structures would change. This table is included at Appendix 3.

3.76 Renewable Fuels Australia made a similar point in evidence. Mr Hill told the Committee:

This has got to do with the phase-out of the Energy Grants Credits Scheme, which is proposed to start on 1 July. ANZ in this instance are supposing that the terminal gate price of diesel and biodiesel are each \$1. As of 1 July, the eligible user of a vehicle over 4.5 tonnes conducting business will be able to claim 18.1c per litre for regular diesel and, in the year 2006-07, will only be able to claim 14c for biodiesel and, in the subsequent year, 11c. Therefore, in simple terms, the cost for the end user will be 81c for diesel and 85c for biodiesel in the year 2006-07.<sup>51</sup>

3.77 To address this issue, the Biodiesel Association of Australia put forward the following proposal:

We want the producer grant to be treated as a producer grant so that, when the excise liable on the production of biodiesel is paid, it can effectively come from the producer grant or from the producer but will be accounted for separately. That way, under the current regime and the proposed changes with legislation, it would have an effective excise of 38c. The advantage of taking this approach is that there is already a sunset clause and a final rate of excise of 19c in 2015, so it requires no modification to any of the legislation, to any other bills—to the intent of the current legislation.<sup>52</sup>

3.78 The Committee sought information from Treasury representatives about these claims. Mr Colmer told the Committee that the cleaner fuels scheme was never intended to be a stimulus package for the biodiesel industry, and quoted from a letter dated 15 June 2005 written by the former Assistant Treasurer, the Hon. Mal Brough MP, to Dr Humphreys of the Australian Biodiesel Group:

The cleaner fuels grant was not intended as a stimulus package for the biodiesel industry.

3.79 Mr Colmer also quoted from the Explanatory Memorandum for the Energy Grants (Cleaner Fuels) Scheme Bill 2004, maintaining that there was nothing in that package that was to be a stimulus for the biodiesel industry:

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50 *Proof Committee Hansard*, 5 June 2006, p. 32-3.

51 *Proof Committee Hansard*, 5 June 2006, p. 46-7.

52 *Proof Committee Hansard*, 5 June 2006, p. 32.

The grant will offset the excise and customs duty payable on biodiesel from 18 September 2003 and continue the current effective excise rate of zero for 100% biodiesel until 30 June 2008. The grant will also be payable on fuel blends containing biodiesel, extending an effective excise rate of zero to the biodiesel component of fuels blends for the same period.<sup>53</sup>

3.80 The Committee considers that while there may not have been any explicit statement in the Explanatory Memorandum for that Act that this was the intention, it is clear that the encouragement of this industry has been widely interpreted as part of the reason for introducing that Act. The Australian Taxation Office also appears to have arrived at this view. For example, its currently published information about the Cleaner Fuels Grants Scheme states:

The scheme is designed to encourage the **manufacture** [emphasis added] and importation of fuels that have a reduced impact on the environment. Currently, biodiesel that meets the biodiesel fuel standard and premium unleaded petrol...are eligible cleaner fuels.<sup>54</sup>

3.81 The clauses of the Energy Grants (Cleaner Fuels) Scheme Act also give weight to the interpretation that it was intended to encourage the manufacture of clean fuels such as biodiesel.

3.82 The objects clause of the Act reads as follows:

2A Object

The object of this Act is to establish a scheme for the provision of grants such as the following:

(a) grants to fully offset any excise duty or customs duty payable in relation to the manufacture or importation of biodiesel for which a provisional entitlement arises during the period starting on 18 September 2003 and ending on 30 June 2011;

(b) grants to partially offset any excise duty or customs duty payable in relation to the manufacture or importation of biodiesel, CNG, ethanol, LNG, LPG or methanol for which a provisional entitlement arises during a transition period starting on 1 July 2011 and ending on 30 June 2015;

(c) grants to encourage the manufacture and importation of low sulphur fuels.

3.83 Section 5 sets out the conditions under which a person or company may become entitled to a grant under the Act:

**5 Becoming provisionally entitled to a cleaner fuel grant**

- (1) You are provisionally entitled to a cleaner fuel grant for a quantity of fuel if:  
(a) the fuel is:

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53 EM, Energy Grants (Cleaner Fuels) Scheme Bill 2004.

54 From ATO website, [www.ato.gov.au/content/downloads/n9886-12-2005final.pdf](http://www.ato.gov.au/content/downloads/n9886-12-2005final.pdf), as downloaded on 10 June 2006.

- (i) imported into Australia; or
  - (ii) manufactured in Australia;
- on or after the fuel's start day; and
- (b) one of the following subparagraphs applies to you:
- (i) you imported the fuel into Australia;
  - (ii) you manufactured the fuel in Australia;
  - (iii) you bought the fuel from such an importer or manufacturer;
  - (iv) you bought the fuel from a licensed person for the fuel;
  - (v) you arranged for the fuel to be manufactured in Australia on your behalf; and ....

3.84 The Committee repeats its observation that, on this issue, Treasury witnesses were strikingly unhelpful, being evidently either unable to answer important questions which had been raised by Senators and witnesses, or unwilling to do so. At the end of the day, the Committee was left with clear and emphatic evidence from industry participants that, were the Fuel Tax Bill 2006 to apply to the biodiesel industry, it would have the effect of depriving the industry of the benefits of fuel tax credits. The perception of the industry is that this would be, in effect, to reverse the policy of the Government. Whether that was an unintended likely consequence the Committee cannot say, having regard to the opaque and unresponsive nature of the evidence of departmental witnesses. In the absence of clear evidence to the contrary, the Committee has no choice but to take at face value the assessments of industry witnesses as to the likely devastating consequences for the industry were the Bills to apply to them.

3.85 While it is apparent from the provisions of the Energy Grants (Cleaner Fuels) Scheme Act that the intention is to encourage the use of the fuel, it is also a reasonable interpretation that manufacture in Australia is also encouraged. The Committee therefore remains of the view expressed by the Chair at the public hearing that it was reasonable to interpret the package as a stimulus.

3.86 It is important to note that the rate at which the grant was paid was designed to be a 100 per cent offset against the excise that would otherwise have been paid until 30 June 2011. The effect of the grant was to give biodiesel a competitive price advantage over conventional diesel.

3.87 The effect of the proposed Bill does appear to be in accordance with the scenario described by the Biodiesel Association, that is, the inability of the buyer of biodiesel to claim a fuel tax offset that would be available if the buyer bought conventional diesel. It remains to be seen whether the effects of reducing this advantage will have as deleterious an effect as that forecast by the industry.

3.88 The Committee has examined aspects of the taxation of renewable fuels before in its 2003 consideration of the Energy Grants (Cleaner Fuels) Scheme Bill 2003 and the Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments)

Bill 2003.<sup>55</sup> In that inquiry, it became clear that in the 2003-04 Budget, there had been a shift in policy in relation to the cleaner fuels industry. As the Committee observed in that report, the Government indicated that it was moving to adopt tax neutral treatment of competing fuels after 1 July 2011 in order to remove taxation distortions that currently exist in the fuel market.

3.89 The stated objective at that time was that:

The Government will reform the fuel excise system to promote long-term sustainability and move to a neutral tax treatment between competing fuels.<sup>56</sup>

3.90 The Budget papers went on to say that:

Reforms will also support the production of cleaner fuels and provide a more certain framework for investment in the fuels sector.

3.91 The difficulties faced by the industry appear to be a product of the interaction between the Energy Grants (Cleaner Fuels) Scheme legislation and the policy intent in the Government's Energy White Paper. As Mr Harms of Treasury summed up:

I think the issue is the interaction of the outcome of that legislation—which is to make biodiesel excise free—with the government's policies announced in the energy white paper, which were essentially to remove the tax on business inputs. So where you are trying to sell a tax-free product into a marketplace that pays no tax, that tax-free product does not have any competitive advantage by virtue of its privileged tax treatment.<sup>57</sup>

### ***Committee's views***

3.92 On the face of the available evidence, and in the absence of sufficient time to pursue this matter to a resolution, the Committee can only conclude that the shift to competitive neutrality has been brought forward, apparently unintentionally.

3.93 The Committee notes that the Government has encouraged the development of the biodiesel industry through a number of initiatives. However, if the industry is deprived of a market because buyers of the product are unable to claim a fuel tax credit, fuel tax liability having been extinguished by a grant under the *Energy Grants (Cleaner Fuels) Scheme Act 2004* or a subsidy paid by the Department of Industry, Tourism and Resources, then the Government's other initiatives to develop the industry and encourage the use of this alternative fuel may well be futile.

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55 Senate Economics Legislation Committee, Report, Provisions of the Energy Grants (Cleaner Fuels) Scheme Bill 2003 and the Energy Grants (Cleaner Fuels) Scheme (Consequential Amendments) Bill 2003, October 2003.

56 Budget Papers 2003-04, Part 1, p. 1-22.

57 *Proof Committee Hansard*, 5 June 2006, p. 89.

## Recommendation

**3.94 The Committee recommends that the Government reconsider whether Subclause 43-5(2) of the Bill is fully consistent with the Government's other policies in relation to encouraging the development of a biodiesel industry and if appropriate, exempt the industry from its operation in the meantime.**

## Fuel Sales Grants Scheme

3.95 Schedule 1 of the Fuel Tax (Consequential and Transitional Provisions) Bill 2006 amends the *Fuel Sales Grants Act 2000* so that a fuel sales grant (under the Fuel Sales Grants Scheme) applies only to fuel sales before 1 July 2006.

3.96 The *Fuel Sales Grants Act 2000* will be repealed on 1 January 2007, allowing outstanding claims to be made until 31 December 2006.<sup>58</sup>

3.97 The Fuel Sales Grants Scheme (FSGS) was introduced on 1 July 2000 to ensure that the gap between city and country fuel prices, known as the fuel price differential, 'need not increase' following the introduction of the GST.

3.98 Currently, it provides a grant to fuel retailers for the sale of petrol and diesel to consumers in non-metropolitan and remote areas where fuel prices are generally higher. The grant is one cent per litre for the non-metropolitan zone and two cents per litre for the remote zone. These zones were defined using an independent index called the Accessibility/Remoteness Index of Australia (ARIA).

3.99 Fuel retailers are expected to pass on the full effect of the grant to consumers.<sup>59</sup>

3.100 The estimated cost of the FSGS between 1 July 2000 and 30 June 2004 was \$850 million.<sup>60</sup>

3.101 The Fuel Taxation Inquiry in 2002 concluded that it was difficult to identify the benefits of the scheme to regional consumers and that significant boundary anomalies were encountered under the scheme. It recommended that the FSGS be terminated from 1 July 2004.

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58 EM, p. 73.

59 Australian Taxation Office, 'Fuel Sales Grants Scheme – An overview of the scheme', available at <http://www.ato.gov.au/businesses/content.asp?doc=/content/14396.htm>

60 Richard Webb, 'Road Funding Changes', Parliamentary Library Research Note No. 45 2003–04, 8 March 2004, p. 2.

3.102 The Inquiry reported that it had received considerable criticism of the scheme and comparatively little support of it. Overall the scheme appeared to have had little noticeable impact. It was not clear that any benefits accruing to regional Australians were proportional to the level of expenditure nor that this program was the best use of the funding.<sup>61</sup>

3.103 On 22 January 2004, the Government announced its decision to wind up the Fuel Sales Grants Scheme from 1 July 2006. The savings from the FSGS (\$265 million in the first year; \$270 million in the second year and \$275 million in the third year) will be redirected to fund improvements in transport infrastructure in outer metropolitan, rural and remote areas, under AusLink.<sup>62</sup>

3.104 The Committee received submissions and evidence from the Royal Automobile Association of Queensland (RACQ) and the Australian Trucking Association (ATA) about the abolition of the scheme.

3.105 The RACQ expressed concern that the abolition of the FSGS would increase fuel costs in regional and remote areas by 1.1 to 3.3 cents a litre, as parties in the supply chain sought to protect their margins, at a time when fuel prices were extremely high. It suggested that the case for the FSGS remained just as valid now as in 2000, particularly in a geographically large, decentralised state such as Queensland.<sup>63</sup>

3.106 In contrast, the Australian Trucking Association (ATA) supported the abolition of the FSGS. Mr Gow told the Committee:

We welcomed that announcement in January 2004 on the understanding that the money would be spent on roads in the areas where the Fuel Sales Grants Scheme had applied—in other words, regional and remote Australia. We believe that has happened with the announcement of increased road expenditure in the budget on 9 May.<sup>64</sup>

3.107 In the ATA's opinion, the FSGS lacked transparency as it could not be established that fuel users benefited from the scheme. It referred to the Fuel Taxation Inquiry's recommendation to abolish the scheme.<sup>65</sup>

3.108 At the hearing, the Committee asked Treasury officials to address the RACQ's claim that fuel prices would rise as a result of the abolition of the Fuel Sales Grants

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61 Fuel Taxation Inquiry Report, March 2002, pp. 161–163.

62 The Hon. John Anderson MP and Senator The Hon. Ian Campbell, Joint Media Release 'Major downpayment on Australia's transport future', APM4/2004, 22 January 2004.

63 Royal Automobile Association of Queensland, *Submission 1*. See also *Proof Committee Hansard*, 5 June 2006, pp. 65–67.

64 *Proof Committee Hansard*, 5 June 2006, p. 2.

65 Australian Trucking Association, *Submission 19*, p.1.

Scheme. However, Treasury was unable to provide evidence to support or refute the RACQ's claim. Mr Colmer explained that:

We have not done any modelling on the impact of the repeal of the Fuel Sales Grants Scheme. It was a policy decision of government—a decision made about where their spending priorities were.<sup>66</sup>

3.109 He advised that the government's decision was taken as part of the broader consideration of the White Paper on Energy Policy, with the money saved to be redeployed into the AusLink program.<sup>67</sup>

3.110 Treasury emphasised that the FSGS had previously been examined by the ACCC and the Fuel Taxation Inquiry who were unable to provide any evidence of its real impact. In the light of this, Mr Colmer told the Committee:

All I can say is that we do not know what the impact will be. It is likely to be variable. It is likely that different recipients of the money have used it for different purposes.<sup>68</sup>

### ***Committee's conclusions***

3.111 The Committee supports the Government's initiative to discontinue a scheme that was of doubtful effectiveness and to redirect the funding to road improvements.

### **Greenhouse Challenge Program**

3.112 The Greenhouse Challenge Plus Program (henceforth referred to as the Program) is part of the Australian Government's Climate Change Strategy, announced in 2004. The Program is designed to:

- reduce greenhouse gas emissions;
- accelerate the uptake of energy efficiency;
- integrate greenhouse issues into business decision-making; and
- provide more consistent reporting of greenhouse gas emissions levels.<sup>69</sup>

3.113 To join the Program, businesses are required to establish an agreement with the Australian Government to manage and reduce greenhouse gas emissions. Assistance is given to businesses in developing their agreements, measuring and monitoring their greenhouse gas emissions and reporting annually to the government and public on their achievements.

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66 *Proof Committee Hansard*, 5 June 2006, p. 74.

67 *Proof Committee Hansard*, 5 June 2006, p. 76.

68 *Proof Committee Hansard*, 5 June 2006, p. 75.

69 Department of the Environment and Heritage Australian Greenhouse Office "About Greenhouse Challenge Plus", at <http://www.greenhouse.gov.au/challenge/members/about.html> [accessed 7 June 2006]

3.114 These Bills establish the requirement for businesses that claim over \$3 million each year in fuel tax credits to join the Program<sup>70</sup>. The Explanatory Memorandum states:

Membership of the Greenhouse Challenge Plus Programme signals an expectation that large energy users will participate in an active partnership with government to address climate change. The programme complements the Government's other energy and greenhouse gas abatement measures addressing large energy users.<sup>71</sup>

3.115 Under subsection 45-5(1), a taxpayer will not be able to claim a total of more than \$3 million of fuel tax credits in a financial year unless at the time they make the claim they are a member of the program or another program determined, by legislative instrument, by the Environment Minister.

3.116 Some submissions suggest that the requirement to join the Program should be restricted to companies who burn the fuels that they purchase, thereby releasing combustion gases. ACCORD Australasia Ltd (ACCORD), which represents manufacturers and suppliers of formulated consumer, cosmetic, hygiene and specialty products, made a submission and gave oral evidence to the inquiry. ACCORD questions the need for companies to join the program purely on the size of their tax credit, rather than on their actual carbon dioxide emissions.<sup>72</sup>

3.117 Mr David Pilkington, Industrial Manager, Recochem Inc told the Committee that Recochem's factory currently runs with a very high energy efficiency, and that the Greenhouse Challenge Plus Program would not assist in their energy efficiency since there is little energy to be saved<sup>73</sup>. Mr Pilkington also noted that solvent emissions are currently being reported through the national pollutant inventory<sup>74</sup>.

3.118 The Committee is unconvinced that any change to the government's policy in relation to this program is warranted.

## Recommendations

**The Committee recommends that the Bills be passed, but considers that there are a number of issues that require resolution before they proceed. Accordingly, the Committee recommends that:**

- **during the transition period announced by the Minister, the Government re-examine the effects of the legislation on manufacturers who use**

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70 EM, p. 19.

71 EM, p. 44.

72 *Proof Committee Hansard*, 5 June 2006, p. 12. (Mr Brock)

73 Recochem, *Submission 3*, p. 4.

74 *Proof Committee Hansard*, 5 June 2006, p. 13.



**hydrocarbons for non-fuel manufacturing processes, with a view to minimising and offsetting any adverse effects;**

- **the Bills be amended to exempt oil recycling companies from the operation of the legislation;**
- **the Government implement an urgent review of the effectiveness of the Product Stewardship for Oil program, with a particular focus on whether the program will continue to be effective in meeting its objectives following the abolition of the energy grants credits scheme and the implementation of the fuel tax credits system;**
- **the Minister for Environment and Heritage initiate a review of disposal requirements applying to used oil, and in particular whether more stringent standards on the use of this material as a burner fuel are appropriate; and**
- **the Government reconsider whether Subclause 43-5(2) of the Bill is fully consistent with the Government's other policies in relation to encouraging the development of a biodiesel industry and if appropriate, exempt the industry from its operation in the meantime.**

Senator George Brandis  
**Chair**

