Subsection 22A of the *National Environment Protection Council Act 1994* (NEPC Act) prescribes that the National Environment Protection Council (NEPC) may make minor variations to National Environment Protection Measures (NEPMs).

**ABOUT NEPMs**

NEPMs are broad framework-setting statutory instruments which, through an extensive process of inter-government and community/industry consultation, reflect agreed national objectives for protecting particular aspects of the environment. NEPMs may consist of any combination of goals, standards, protocols, and guidelines.

Once a draft NEPM has been finalised, it is then formally “made” by NEPC. A decision to make (or to vary) a NEPM requires the support of a two-thirds majority of members of NEPC. NEPMs are implemented by jurisdictions which participate in NEPC within their own jurisdictional legal frameworks.

**NATIONAL ENVIRONMENT PROTECTION (DIESEL VEHICLE EMISSIONS) MEASURE**

The National Environment Protection (Diesel Vehicle Emissions) Measure (Diesel NEPM) was developed as one part of an integrated suite of approaches to manage emissions from diesel vehicles.

The Diesel NEPM provides a framework for the management of in-service emissions from diesel vehicles and complements and protects the emissions improvements obtained from existing regimes, including emission standards for new vehicles and fuel quality standards that are specified in Commonwealth legislation.

The Diesel NEPM provides guidelines for developing programs to minimise the deterioration in exhaust emissions performance, or improve exhaust emissions performance, from diesel vehicles while they are in service.

The NEPM is complemented by the Australian Vehicle Standards Rules (AVSR) Rule 147A which specifies the DT80 test as the standardised test for test and repair programs.

**Reasons for the Proposed Minor Variation to the NEPM**

The Diesel NEPM was reviewed in 2007 and, overall, was found to provide a sound framework for programs to reduce emissions from diesel vehicles. However the Review also
found scope for improving and updating the schedules to the NEPM. Submissions received from stakeholders during the Review indicated that the schedules required updating to:

- incorporate reference to new technology
- reflect knowledge gained through experience in implementing the NEPM and its guidelines
- improve the effectiveness of the NEPM.

The DT80 test is an essential element of the implementation of the Diesel NEPM. However, the DT80 test and associated standards will be reviewed as part of a separate process under the Australian Vehicle Standards Rules and are outside the consultations being undertaken on the amendments to the Diesel NEPM.

**Nature and Effect of the Proposed Variation to the NEPM**

It is important to note that the proposed minor variation does not affect the main body of the NEPM and is limited to amendments of the schedules to the NEPM. As the affected schedules are changed in a number of places, the proposed variation is presented with entire revised schedules to replace the existing schedules, rather than listing the individual amendments to the text.

The nature and effects of the proposed minor variation are outlined below:

**Schedule A (1) Guideline on Smoky Vehicle Programs**

is amended to include additional guidance to jurisdictions on the design and operation of smoky vehicle programs.

**Schedule A (2) Guideline on Diesel Vehicle Emission Testing and Repair Programs**

is amended to simplify reference to the in-service emissions standards and test.

**Schedule A (4) Guideline on Diesel Vehicle Retrofit Programs**

is amended to:

- Update the list of incentive mechanisms for diesel retrofits to include bundling highly fuel-efficient technologies with emission control devices
- Indicate that retrofit devices should not be fitted to engines emitting excessive smoke or using excessive amounts of oil
- Incorporate the use of diesel particle filters and partial filter traps
- Provide guidance to assist selection of the appropriate retrofit technology based on existing knowledge of engine exhaust temperature and duty cycle.

The amendments to the three guidelines listed above are designed to provide a higher level of protection to the emissions improvements achieved through existing regimes, including Commonwealth legislation.

**Schedule A (5) Guideline on Diesel Engine Rebuild Programs**

is deleted because the review found that it is redundant as it has never been implemented to date and is unlikely to be in the future.

**Reasons Why NEPC is Satisfied that the Variation is a Minor Variation**

The proposed variation does not involve a significant change in the effect of the NEPM and will have no financial impacts.
The proposed variation relates only to improvements to the Schedules to the NEPM. The Schedules provide guidance for jurisdictions on the management of diesel vehicle emissions and are implemented on a voluntary basis.

**REASONS FOR GOVERNMENT INTERVENTION**

Emissions from diesel vehicles add disproportionately to urban air pollution. The particular pollutants of concern are oxides of nitrogen (NOx) and particles. These pollutants have significant potential to adversely affect human health and amenity.

The use of diesel vehicles is forecast to double by 2020. While this increase will be off-set by cleaner new diesel vehicles, emissions from these vehicles will still be a major contributor from total transport emissions.

The Diesel NEPM provides a framework for the management of in-service emissions from diesel vehicles that complements and protects the emissions improvement obtained from other regimes such as new vehicle standards and fuel quality standards.

The NEPM is structured with a mandatory requirement for jurisdictions to assess and report on the need to address in-service emissions in their jurisdiction. The Schedule to the NEPM sets out five guidelines that provide approaches for improving the maintenance and operation of diesel vehicles. Implementation of the guidelines is voluntary and they can be adapted to suit the specific circumstances of the jurisdiction.

**IMPACT STATEMENT**

As this is a minor variation process, no impact statement is required by the NEPC Act.

**CONSULTATION**

In September 2008, NEPC released a draft NEPM variation and explanatory statement for public consultation for a period of one month (as required for minor variations in the NEPC Act). The public was notified of the release of these documents through statutory notices in newspapers circulating in all jurisdictions and the Commonwealth of Australia Gazette and placement of the relevant documents on the EPHC website.

One submission was received from the WA Government. All comments from that submission were adopted into the proposed variation.

**IMPLEMENTATION**

Once a NEPM (or variation) is made by the NEPC, jurisdictions are required to implement the NEPM. Jurisdictions will implement the Diesel NEPM as varied through their environment protection policies or regulations.

As required by the Act, jurisdictions will continue to report annually on the implementation and effectiveness of the NEPM.
LEGISLATIVE REQUIREMENTS

All legislative requirements specified in the Act have been met during the development of this variation.

DESCRIPTION OF THE VARIATION

The variation updates the Schedules to the Diesel NEPM to:

- simplify reference to the in-service standards and test
- incorporate reference to new technology
- reflect knowledge gained through experience in implementing the NEPM and its guidelines.

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and commenced on the day after registration on the Federal Register of Legislative Instruments.