



Guide to Reading the *Petroleum and Other Fuels Reporting Rules 2017*

Introduction

The Australian Government is introducing a mandatory reporting requirement for petroleum and other fuel data. This will improve the accuracy of transport fuel statistics in publications such as the Australian Petroleum Statistics Report and assist the Government to meet its international statistical reporting obligations.

Mandatory reporting will be established through the *Petroleum and Other Fuels Reporting Bill 2017* (the Bill) which was tabled in Parliament on 30 March 2017. The detailed reporting requirements will be prescribed in subordinate legislation, the *Petroleum and Other Fuels Reporting Rules 2017* (the Rules).

The Department of the Environment and Energy has released a draft of the Rules for consultation. These draft Rules mostly replicate the existing reporting requirements for the Australian Petroleum Statistics Report. The Department welcomes questions and feedback on the draft Rules until 14 July 2017, to enable the Rules to be finalised well before commencement on 1 January 2018.

This Guide is intended to help stakeholders who are unfamiliar with legislation to review the Rules. Fact Sheets will also be available to explain the reporting requirements in detail for different sectors, and readers seeking a detailed explanation of the intended operation of specific sections should refer to the draft Explanatory Statement.

Key Concepts

Stakeholders reviewing the draft Rules may find it helpful to keep in mind the following points.

The Bill and Rules should be read together and as a whole.

The Bill and Rules are intended to operate as a single legislative package. Individual sections should be interpreted in light of all the provisions in the legislative package.

A number of terms have specific meanings.

The Bill and the Rules define a number of terms, and some definitions may not match common industry usage. For example, the term ‘wholesaling’ is given a very specific definition in the Bill to ensure the reporting obligation for this activity is clear.

Reporting is based on undertaking a ‘covered activity’ in relation to ‘covered product’.

The concept of a covered activity (e.g. producing) in relation to a covered product (e.g. crude oil) is central to the legislative package, with the reporting requirements prescribed on the basis of an entity undertaking a specific covered activity in relation to one or more covered products.

It is important to note that not all covered activities are prescribed as reportable and some covered products are only reportable for some covered activities. For example, importing and exporting are covered activities, but no reporting obligation is prescribed in the Rules due to



an existing data-sharing arrangement on import and export information with the Australian Bureau of Statistics.

The Rules have three main operative provisions.

When determining if a business has a reporting obligation, the key provisions in the Rules are sections 16-18. These provisions prescribe the reporting obligations enabled by clause 11 of the Bill. The remaining provisions in the draft Rules generally clarify, expand or narrow the reporting obligations in sections 16-18. This is why it is so important to read the legislative package as a whole.

Interpreting the Reporting Obligations

The main operative provisions in the Rules are sections 16, 17 and 18. Section 16 sets out the reporting requirements for the activities of producing, processing, refining and wholesaling; section 17 sets out the reporting requirements in relation to holding stock; and section 18 sets out the reporting period and due date for reports.

Producing, Processing, Refining and Wholesaling

Section 16 sets out the reporting requirements for all activities except holding stock in a table at subsection 16(1). The table should be read left to right as follows:

- **Item:** provides a reference number for ease of reference.
- **Column 1:** sets out the covered activity in relation to a covered product that is prescribed as reportable.
- **Column 2:** sets out who has the reporting obligation. This is generally the owner of the covered product.
- **Column 3:** sets out the specific information that must be reported.

Section 18 sets the reporting period and due date for reports prescribed under section 16. For all activities except the wholesaling of petroleum coke and GLOWS (greases, lubricants, base oils, waxes and solvents), reports must be submitted on a monthly basis within 15 days of the end of the month.

There are a few points to note with the reporting obligations in section 16:

- i. Only activities occurring in Australia (including production in the EEZ and territorial waters) are reportable under section 16.
- ii. A threshold of 3 kilotonnes (3kt) applies under subsection 16(2). This is intended to exempt small-scale operations from having to report.
- iii. There is a repetition of reporting requirements for producing, processing and refining. For example, items 5 and 6 both prescribe a reporting obligation for the processing of natural gas liquids. This is a deliberate drafting construction to ensure that if a field, plant or refinery is inactive for a month that a report listing any change to other factors, such as stock levels, is still required.



Case Study: Applying the Table in Section 16 to Wholesaling GLOWS

The wholesaling of GLOWS is prescribed as a reportable activity at item 10 of the table under subsection 16(1). The reporting obligation can be unpacked through a number of steps.

The first step is to unpack the covered activity and covered products:

- *Wholesaling* is defined at clause 5 of the Bill as (effectively) triggering an obligation to pay excise or customs duty, or if these taxes do not apply, removing the product from an import terminal or domestic production facility. Therefore, for a product like lubricant which is subject to excise, entering the product for home consumption, would engage the reporting obligation.
- *GLOWS* is defined in section 4 of the Rules as petroleum-based greases, lubricants, lubricating oil base stocks, waxes and solvents.

The second step is to determine who has the reporting obligation. Applying Column 2 this is the person who undertook the wholesaling. This is either the business that paid excise or customs duty, or the business that removed the product from a production facility or import terminal. Someone else may report on behalf of the person specified in Column 2.

If the person who is prescribed under Column 2 wholesaled less than 3kt of covered products during the last financial year they are exempted from the requirement to report.

The third step is to determine what information needs to be reported. Applying Column 3, this is the total quantity of GLOWS wholesaled in the reporting period, separated by state marketing area and the categories and subcategories set out in Schedule 1. *State marketing area* is defined at section 4 of the Rules, while Schedule 1 lists four relevant categories, namely: *lubricating oil base stock*, *lubricant*, *petroleum-based solvent* and *paraffin wax*; with lubricant split into sixteen subcategories.

The final step is to determine the reporting period and deadline. Item 3 of the table under subsection 18(1) provides that GLOWS wholesaling reports are due within 31 days on a half yearly basis. *Half-year* is defined at section 4 of the Rules to mean the periods of 1 January to 30 June and 1 July to 31 December. Therefore, reports are due on 31 July and 31 January.

Holding Stock

Section 17 sets out the reporting obligations in relation to holding stock. This is provided in a separate clause due to the specific rules that will apply to stock reporting.

The table at subsection 17(1) should also be read left to right as follows:

- **Item:** provides a reference number for ease of reference.
- **Column 1:** sets out the covered activity, being either holding stock or holding a contractual right to take possession of stock, and the relevant covered products.
- **Column 2:** sets out who has the reporting obligation. This is either the owner of the stock or the person who holds the right to take possessions.
- **Column 3:** sets out the information that must be reported.

Section 18 sets the reporting period and due date for reports prescribed under section 17. For all products except petroleum coke and GLOWS, reports must be submitted monthly within 15 days of the end of the month.

There are a few points to note with section 17:



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- i. Several provisions, such as section 9 of the Rules and clause 5 of the Bill, exclude stocks in certain locations from being reportable. This means that reporting is not required for these stocks.
- ii. Subsection 17(3) applies items 2, 3 and 4 in the table to stock held outside Australia. Items 1 and 5 only apply to stocks in Australia.
- iii. Subsection 17(4) provides that if stock has already been reported to comply with section 16 it does not need to be re-reported. This means that producers, processors and refiners who report their stocks under section 16 do not need to re-report them under section 17.
- iv. Subsection 17(5) applies a two part reporting threshold. Both parts must be satisfied to exempt a business from the requirement to report stock levels.

Case Study: What Stock is Reportable?

A diesel wholesaler holds 20kt of stock at the end of a month, which is split as follows:

- 2kt stored in road tankers travelling to clients;
- 8kt stored in third party import terminals on the Australian coast;
- 1kt stored at the wholesaler's own inland storage depot
- 4kt held as 'free on board' in a tanker awaiting unloading at Fremantle.
- 3kt awaiting sale at a service station operated by the wholesaler

In this scenario, section 17 would apply the reporting obligation as follows.

The 3kt of diesel at the service station and 2kt in road tankers is not reportable. This is because the definition of holding stock in clause 5 of the Bill excludes stock in these circumstances.

The 4kt of stock awaiting unloading at Fremantle may be reportable under item 3. Whether it is reportable depends on the logistics of the journey, in particular whether it meets the definition of domestic shipping at section 4 of the Rules. For example, if the tanker previously unloaded fuel in Geraldton before heading to Fremantle, the stock would be reportable

The 8kt in import terminals and 1kt in the inland storage depot are reportable under item 1. The report would need to identify the state where the stock is stored and the relevant subcategory (e.g. whether the diesel is regular, premium or a blend with biodiesel).

More Information?

More information on the reporting obligations is available at the mandatory reporting website at www.environment.gov.au/energy/energy-security-office/international-engagement/mandatory-reporting-petroleum-data. This includes Fact Sheets on the reporting obligations for different industries and links to the Bill and draft Rules.

The Department will offer training sessions in the second half of 2017 to assist those responsible for compiling reports to understand the details of the reporting obligation and the reporting process. Further information will be provided closer to the sessions, but you can register your interest in attending by emailing mrps@environment.gov.au.