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Statutory Rules 1988 No. 1

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Petroleum Excise (Prices) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Petroleum Excise (Prices) Act 1987*.

Dated 18 February 1988.

N. M. STEPHEN

Governor-General

By His Excellency's Command,

signed Peter Cook
Minister of State for Resources

Citation

1. These Regulations may be cited as the Petroleum Excise (Prices) Regulations.

Interpretation

2. (1) In these Regulations, unless the contrary intention appears:

“due date”, in relation to payment of the sale price under a contract:

- (a) where a period is provided under the contract within which that payment is to be made—means the date of the last day of that period; or
- (b) in any other case—means the date identified under the contract for that payment;

“effective credit day”, in relation to a transaction comprising the sale under a contract of a quantity of crude petroleum oil, means the

day immediately preceding any period allowed under the contract for payment of the sale price;

"f.o.b. contract" means a contract for the sale of a quantity of crude petroleum oil by the oil producer of that oil under which:

- (a) the oil is to be loaded on a ship or ships; and
- (b) the producer bears none of the costs of:
 - (i) freight;
 - (ii) insurance;
 - (iii) demurrage at the port of destination;
 - (iv) lighterage at the port of destination;
 - (v) wharfage at the port of destination;
 - (vi) heating of the oil; or
 - (vii) bunkers;

relating to the transport of that oil to the purchaser after the oil is loaded;

"maximum indicator interest rate", in relation to a day, means the higher or the highest, as the case may be, of the range of rates of interest per annum current on that day quoted by the Reserve Bank, on the basis of reports by each bank regarded by the Reserve Bank as a major trading bank operating in Australia in respect of overdrafts of \$100,000 or more;

"Platt's Oilgram Price Report" means the daily oil and gas price and marketing letter published under that name by McGraw-Hill Inc., New York, United States of America;

"Reserve Bank mid-rate", in relation to a foreign currency on a day, is the rate, expressed as an amount in that currency that is equivalent to the Australian dollar, quoted by the Reserve Bank as at 4 p.m. Eastern Standard Time, or Eastern Summer Time, as the case may be, on that day;

"sale price", in relation to a contract for the sale of a quantity of crude petroleum oil by an oil producer, means the total amount payable to the producer under that contract for that quantity of oil;

"the Act" means the *Petroleum Excise (Prices) Act 1987*.

(2) For the purposes of these Regulations, 2 or more persons shall be regarded as associates of each other if they would be deemed to be associates of each other in accordance with paragraph 1 (k) of Schedule 1 to the *Petroleum Revenue Act 1985* if that paragraph applied to them.

(3) In these Regulations, unless the contrary intention appears:

- (a) a reference to the number of credit days allowed under a contract for the sale of crude petroleum oil is a reference to the duration, expressed as a number of days, of any period within which payment of the sale price is to be made under the contract;
- (b) a reference to credit days allowed under such a contract that exceed or do not exceed a specified number is a reference to such a period

the duration of which exceeds or does not exceed the specified number of days;

whether or not the duration of that period is expressed in the contract in terms of days.

(4) In these Regulations, unless the contrary intention appears, a reference to the delivery of oil by pipeline is a reference to the loading of oil into a pipeline otherwise than for the purpose of loading on a ship.

Determination of reference price

3. For the purposes of paragraph 5 (3) (b) of the Act, the amounts of the adjustments to be made for the purpose of determining a reference price for the month of March 1988, or for a subsequent month, (in this regulation called "the reference price month") in accordance with subsection 5 (2) of the Act shall be calculated in accordance with the formula:

$$RP = IV(M-2) \times \frac{P(M-1)}{P(M-2)} \times \frac{E(M-2)}{E(M-1)} ;$$

where:

- RP** is the reference price (expressed as an amount of Australian dollars, calculated to the nearest cent, per kilolitre) for the reference price month;
- IV(M-2)** is the interim VOLWARE price, per kilolitre, for the month that ends immediately before the month immediately preceding the reference price month;
- P(M-1)** is the price (expressed as an amount of United States dollars, calculated to 3 decimal places, per kilolitre) that is the average of:
- (a) the mid-range of the spot prices for Dubai crude oil prices; and
 - (b) the mid-range of the spot prices for Oman crude oil prices;

for oil to be delivered in the reference price month, being the spot prices for such oil that are notified in Platt's Oilgram Price Report for each of the last 5 days, in respect of which such prices are so notified, immediately preceding the twentieth day of the month immediately preceding the reference price month;

- P(M-2)** is the price (expressed as an amount of United States dollars, calculated to 3 decimal places, per kilolitre) that is the average of:
- (a) the mid-range of the spot prices for Dubai crude oil prices; and
 - (b) the mid-range of the spot prices for Oman crude oil prices;

for oil to be delivered in the month immediately preceding the reference price month, being the spot prices for such oil

that are notified in Platt's Oilgram Price Report for each of the last 5 days, in respect of which such prices are so notified, immediately preceding the twentieth day of the month that ends immediately before the month immediately preceding the reference price month;

- E(M-1) is the rate, calculated to 4 decimal places, that is the average of the Reserve Bank mid-rate for the United States dollar for the last 5 days, in respect of which such a rate is quoted by the Reserve Bank, immediately preceding the twentieth day of the month immediately preceding the reference price month;
- E(M-2) is the rate, calculated to 4 decimal places, that is the average of the Reserve Bank mid-rate for the United States dollar for the last 5 days, in respect of which such a rate is quoted by the Reserve Bank, immediately preceding the twentieth day of the month that ends immediately before the month immediately preceding the reference price month.

Transactions entered into: prescribed information

4. (1) Subject to subregulation (2), the following information is prescribed for the purposes of subsection 6 (1) of the Act in respect of a transaction, entered into by an oil producer of excisable crude petroleum oil entered for home consumption, comprising the sale of that oil:

- (a) whether the producer and the other party or parties to the transaction, or the producer and any of the parties to the transaction, are associates of each other;
- (b) whether under the transaction the oil is to be loaded on a ship or ships or delivered by pipeline;
- (c) where under the transaction all or part of that oil is loaded on a ship under a contract:
 - (i) the name of the producer;
 - (ii) the date of the contract;
 - (iii) the number of the contract, or the shipment number, allocated by the producer;
 - (iv) the purchaser's name;
 - (v) whether the sale is a domestic sale or an export sale;
 - (vi) where the contract so specifies—the destination of the oil;
 - (vii) the name of the ship;
 - (viii) the number of the bill of lading relating to the oil;
 - (ix) the date of entry of the oil for home consumption;
 - (x) the quantity of the oil loaded on the ship (expressed as an amount of kilolitres and as an equivalent amount of barrels);

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- (xi) where the contract is not an f.o.b. contract or any other contract under which the quantity of oil sold is the quantity of oil loaded on the ship—the quantity of the oil delivered under the contract (expressed as an amount of kilolitres or as an equivalent amount of barrels);
 - (xii) whether the contract is an f.o.b. contract;
 - (xiii) the price per kilolitre or per barrel for the oil;
 - (xiv) the due date for payment of the sale price under the contract;
 - (xv) the currency in which payment of the sale price is to be effected (in this paragraph called “the currency of payment”);
 - (xvi) where the currency of payment is not Australian dollars—the Reserve Bank mid-rate for the currency of payment as quoted by the Reserve Bank for the due date for payment of the sale price or, if that rate is not quoted for that date, the Reserve Bank mid-rate for the currency of payment for the last day, preceding that date, for which that rate is so quoted;
 - (xvii) where the currency of payment is not Australian dollars—the sale price under the contract (expressed as an amount of that currency and as an equivalent amount of Australian dollars);
 - (xviii) the date of the effective credit day;
 - (xix) the number of credit days allowed; and
 - (xx) the maximum indicator interest rate quoted by the Reserve Bank for the date of entry for home consumption of the oil or, if that rate is not quoted for that date, the maximum indicator interest rate for the last day, preceding that date, for which that rate is so quoted;
- (d) where all or part of that oil is loaded on a ship under a contract other than an f.o.b. contract—the value applicable under paragraph 6 (1) (b) to each type of cost, referred to in a subparagraph of paragraph 6 (1) (a), incurred by the producer under that contract together with sufficient particulars to enable the nature of that cost to be readily identified;
- (e) in a case where particulars of 2 or more types of cost are given in accordance with paragraph (d)—the total of those costs; and
- (f) where all or part of that oil is delivered by pipeline under a contract:
- (i) the name of the producer;
 - (ii) that date of the contract;
 - (iii) the number of the contract allocated by the producer;
 - (iv) the purchaser’s name;
 - (v) date of entry of the oil for home consumption;
 - (vi) the quantity of the oil (expressed as an amount of kilolitres and as an equivalent amount of barrels);

- (vii) the price per kilolitre or per barrel for the oil;
 - (viii) the due date for payment of the sale price under the contract;
 - (ix) the currency in which payment of the sale price is to be effected (in this paragraph called "the currency of payment");
 - (x) where the currency of payment is not Australian dollars the Reserve Bank mid-rate for the currency of payment as quoted by the Reserve Bank for the due date for payment of the sale price or, if that rate is not quoted for that date, the Reserve Bank mid-rate for the currency of payment for the last day, preceding that date, for which that rate is so quoted;
 - (xi) where the currency of payment is not Australian dollars—the sale price under the contract (expressed as an amount of that currency and as an equivalent amount of Australian dollars);
 - (xii) the date of the effective credit day;
 - (xiii) the number of credit days allowed; and
 - (xiv) the maximum indicator interest rate quoted by the Reserve Bank for the date of entry for home consumption of the oil or, if that rate is not quoted for that date, the maximum indicator interest rate for the last day preceding that date for which that rate is so quoted.
- (2) For the purposes of subregulation (1):
- (a) where a producer is required to give information that comprises an amount the producer shall give the actual amount or, if it is not reasonably practicable for the producer to give the actual amount, the producer's best estimate of that amount; and
 - (b) where information comprises an estimated amount, the producer shall indicate in relation to that amount that the information is an estimate.

Transaction prices: manner of calculating

5. (1) In this regulation:

"applicable whole cost", in relation to a quantity of crude petroleum oil loaded on a ship under a contract of sale, other than an f.o.b. contract, by the oil producer of that oil means the total of the values applicable under paragraph 6 (1) (b) to any of the costs referred to in paragraph 6 (1) (a) incurred by the producer under the contract;

"applicable whole price", in relation to a quantity of crude petroleum oil loaded on a ship, or delivered by pipeline, under a contract of sale, means:

- (a) where the contract is a contract, other than an f.o.b. contract or any other contract under which the quantity of oil sold is the quantity of oil loaded on the ship, under which a quantity of oil is loaded on a ship (in this paragraph called "the loaded quantity") and the amount of the sale price under the contract is to be computed by reference to the quantity of oil delivered under the contract (in this paragraph called "the delivered quantity") and the loaded quantity exceeds the delivered quantity by more than 0.5% of the loaded quantity—the value of the loaded quantity, expressed as an amount of Australian dollars to the nearest cent, calculated in accordance with the following formula:

$$AWP = (LQ - 0.005 \times LQ) \times P$$

where:

AWP is the applicable whole price;

LQ is the loaded quantity; and

P is the price per kilolitre of the oil under the contract; and

- (b) in any other case—the price indicated in the contract as the sale price, expressed as an amount of Australian dollars to the nearest cent;

"excisable quantity cost", in relation to a quantity of crude petroleum oil loaded on a ship under a contract of sale, other than an f.o.b. contract, being oil all or part of which is entered for home consumption during a month, means the amount (expressed as an amount of Australian dollars to the nearest cent) that is the same proportion of the applicable whole cost for that oil as the proportion:

$$\frac{TEO}{TO};$$

where:

TEO is the total quantity of excisable crude petroleum oil entered for home consumption during that month;

TO is the total quantity of excisable crude petroleum oil entered for home consumption during that month and of any other crude petroleum oil mixed with that oil at the time of that entry;

"excisable quantity price", in relation to a quantity of crude petroleum oil loaded on a ship, or delivered by pipeline, under a contract of sale being oil all or part of which is entered for home consumption during a month, means the amount (expressed as an amount of Australian dollars to the nearest cent) that is the same proportion of the applicable whole price for that oil as the proportion:

$$\frac{TEO}{TO};$$

where:

TEO is the total quantity of excisable crude petroleum oil entered for home consumption during that month;

TO is the total quantity of excisable crude petroleum oil entered for home consumption during that month and of any other crude petroleum oil mixed with that oil at the time of that entry;

“relevant delivery price”, in relation to a quantity of crude petroleum oil loaded on a ship, or delivered by pipeline, under a contract of sale:

(a) in the case of oil loaded on a ship under an f.o.b. contract or delivered by pipeline—means the excisable quantity price for that oil; or

(b) in any other case—means the excisable quantity price for that oil less the excisable quantity cost for that oil .

(2) For the purposes of paragraph 7 (5) (a) of the Act, the transaction price for a quantity of excisable crude petroleum oil, comprising all or part of a quantity of oil loaded on a ship, or delivered by pipeline, under a contract of sale under which:

(a) no more than 15 credit days are allowed—is the relevant delivery price of that oil; or

(b) more than 15 credit days are allowed—shall be calculated by deducting from the relevant delivery price of that oil a credit allowance determined in accordance with the formula specified in subregulation (3) or (4), as the case requires.

(3) Subject to subregulation (4), the formula for the purposes of paragraph (2) (b), is:

$$CA = \frac{(CD-15) \times IR \times RDP}{N};$$

where:

CA is the credit allowance (expressed as an amount of Australian dollars to the nearest cent);

CD is the number of credit days allowed;

IR is the maximum indicator interest rate quoted by the Reserve Bank for the date of entry for home consumption of the oil or, if that rate is not quoted for that date, the maximum indicator interest rate for the last day, preceding that date, for which that rate is so quoted;

N is:

(a) where under the contract the effective credit day and the due date for payment are in the same year—the number of days in that year; or

- (b) where under the contract the effective credit day is in one year and the due date for payment is in the immediately succeeding year and the number of credit days allowed under the contract that occur in the first of those years is no more than 15—the number of days in the second of those years;

RDP is the relevant delivery price of the oil.

(4) Where:

- (a) the effective credit day under the contract is in one year (in this subregulation called “the first year”) and the due date for payment under the contract is in the immediately succeeding year (in this subregulation called “the second year”);
- (b) the number of credit days allowed under the contract that occur in the first year is more than 15; and
- (c) one of those years is a leap year;
- the formula for the purposes of paragraph (2) (b) is as follows:

$$CA = \frac{(CD_1 - 15) \times IR \times RDP}{N_1} + \frac{CD_2 \times IR \times RDP}{N_2};$$

where:

- CA**, **IR** and **RDP** have the meanings respectively attributed to them in subregulation (3);
- CD₁** is the number of credit days allowed that occur in the first year;
- CD₂** is the number of credit days allowed that occur in the second year;
- N₁** is the number of days in the first year;
- N₂** is the number of days in the second year.

Oil transport costs

6. (1) For the purposes of paragraph 4 (1) (d) and the definition of “applicable whole cost” in subregulation 5 (1):

- (a) the costs are:
- (i) freight;
 - (ii) insurance;
 - (iii) demurrage at the port of destination not caused by any action of the producer;
 - (iv) lighterage at the port of destination;
 - (v) wharfage at the port of destination;
 - (vi) heating of the oil;
 - (vii) bunkers; and
 - (viii) survey; and
- (b) the value of a cost referred to in a subparagraph of paragraph (a) is:

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- (i) where the Minister, or an authorised person, and the producer agree on that value--the value as agreed; or
- (ii) in any other case--the amount (if any) incurred in respect of that cost;

and shall be expressed as an amount of Australian dollars to the nearest cent.

(2) In subregulation (1):

“authorised person” means a person for the time being authorised by the Minister to exercise the Minister’s powers under section 7 of the Act.

Conversion into Australian dollars of amounts expressed in foreign currency

7. For the purposes of paragraph 4 (1) (d) and the definitions of “applicable whole cost” and “applicable whole price” in subregulation 5 (1), where the amount indicated in a contract of sale as the sale price, or an amount incurred under a contract of sale in respect of a cost of a type referred to in paragraph 6 (1) (a) is expressed in a foreign currency, the exchange rate to convert the amount of the sale price or cost into Australian dollars shall be the Reserve Bank mid-rate for the foreign currency as quoted by the Reserve Bank for the due date for payment of the sale price under that contract or, if that rate is not quoted for that date, the Reserve Bank mid-rate for that currency for the last day, preceding that date, for which that rate is so quoted.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

/ 1988.

25 February /