



# **Petroleum and Other Fuels Reporting Amendment (Minimum Stockholding Obligation) Rules 2022**

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I, the Hon Chris Bowen MP, Minister for Climate Change and Energy, make the following instrument.

Dated 08/11/2022

Chris Bowen  
Minister for Climate Change and Energy

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## 1 Name

This instrument is the *Petroleum and Other Fuels Reporting Amendment (Minimum Stockholding Obligation) Rules 2022*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	Immediately after commencement of the <i>Fuel Security (Minimum Stockholding Obligation) Rules 2022</i> .	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under section 41 of the *Petroleum and Other Fuels Reporting Act 2017*.

## 4 Schedules

Each instrument that is specified in the Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

# Schedule 1—Amendments

## *Petroleum and Other Fuels Reporting Rules 2017*

### 1 Section 4

Insert:

*MSO* means the minimum stockholding obligation under the FS Act.

*MSO activity* has the meaning given by the FS Act.

*MSO product* has the meaning given by the FS Act.

*MSO rules* means the *Fuel Security (Minimum Stockholding Obligation) Rules 2022*.

*N10 form* has the meaning given by the MSO rules.

*N30 form* has the meaning given by the MSO rules.

*obligation day* has the meaning given by the FS Act and MSO rules.

*subject to the MSO* means subject to the minimum stockholding obligation under the FS Act.

### 2 At the end of section 5

Add:

- ; (c) storing stocks of MSO products that are held under section 19 of the FS Act by an entity subject to the MSO.

### 3 Paragraph 19C(4)(a)

After “no later”, insert “than”.

### 4 At the end of Division 3 of Part 2

Insert:

## Subdivision D—Reports related to MSO products

### 19D MSO reporting

- (1) This Subdivision sets out reporting requirements for section 11 of the Act and auditing arrangements for section 13B of the Act to support the MSO.
- (2) If a volume is to be reported under this Subdivision in megalitres, it may be:
  - (a) converted from other measurements consistent with the arrangements for calculating any excise or customs duty for the product; or
  - (b) calculated consistently with standard industry practices used by the entity for commercial and business reporting purposes.

Note: This may involve the use of standard temperature and pressure and relevant densities to convert a measurement of tonnes into a volume.
- (3) If a number of regulated entities within a corporate group are required to report under this Subdivision, one regulated entity may report on behalf of the members of the group if those members consent to that arrangement and that consent is communicated to the Secretary.

## **19E Reports—MSO obligation day stockholding data**

- (1) For the purposes of section 11 of the Act:
  - (a) a report must be given under that section if:
    - (i) a covered activity of importing or refining is undertaken in Australia, in relation to an MSO product; and
    - (ii) the entity undertaking the activity is subject to the MSO in relation to the MSO product under the FS Act; and
  - (b) the report must be given by the regulated entity that undertakes an MSO activity; and
  - (c) the report must be given to the Secretary within 72 hours of the end of each obligation day.
- (2) However, if any of the time in paragraph (1)(c) is a public holiday in the Australian Capital Territory, that time is not included in the 72 hours.
- (3) The report must include the following fuel information:
  - (a) the total volume, rounded to the nearest megalitre, of MSO product held by the entity under section 19 of the FS Act for each MSO product for which the entity is subject to the MSO on the obligation day;
  - (b) the volume of each MSO product reported under paragraph (a) that was held for each of sections 22, 23, 24 or 25 of the FS Act;
  - (c) the volume of each MSO product that would otherwise be held by the entity under section 22 of FS Act on the obligation day, but is being held by another entity under section 23 or 24 of the FS Act;
  - (d) the names of any entities holding stock under paragraph (c);
  - (e) the names of any entities with legally enforceable arrangements under section 23 or 24 of the FS Act which allowed the reporting entity to hold stock under those sections on the obligation day;
  - (f) if any MSO products included under paragraph (a) are stored in a pipeline—the volume of those MSO products;
  - (g) if any MSO products included under paragraph (a) are stored in a vessel covered by the circumstance in section 9 of the MSO rules—the volume of those MSO products;
  - (h) if an MSO product was held for section 25 of the FS Act—the volumes calculated for crude oil under section 13 of the MSO rules and the volumes calculated for unfinished refinery product under section 14 of the MSO rules;
  - (i) if any errors have been identified in any previous report provided under this section—the correct information that should have been reported.
- (4) The report of volumes held for section 24 of the FS Act under paragraph (3)(b) and names under paragraph (3)(e) is taken to be the necessary reports for paragraph 24(d) of the FS Act.

## **19F Reports—MSO annual activity data**

- (1) For the purposes of section 11 of the Act:
  - (a) a report must be given under that section if:
    - (i) a covered activity of importing or refining is undertaken in Australia, in relation to an MSO product during a calendar year; and
    - (ii) the entity undertaking the activity is subject to the MSO in relation to the MSO product under the FS Act; and

- (b) the report must be given by the regulated entity that undertakes the covered activity; and
  - (c) the report must be given to the Secretary within 21 days after the end of the calendar year.
- (2) The report must include the following fuel information:
- (a) if the reporting entity is an importer:
    - (i) the total volume, rounded to the nearest megalitre, of MSO product imported by the entity in the previous calendar year, based on relevant N10 forms and N30 forms; and
    - (ii) if any of that volume was also imported by another entity under section 5 of the MSO Rules—the following:
      - (A) the name of each such entity and the volume that was also imported by it in the previous calendar year;
      - (B) the total volume, rounded to the nearest megalitre, imported by such entities in the previous calendar year;
  - (b) if the reporting entity is a refiner—the total volume, rounded to the nearest megalitre, of MSO product refined by the entity in the previous calendar year;
  - (c) the entity's total storage capacity, in megalitres, for each MSO product at the end of the calendar year;
  - (d) for each storage site owned, leased or used by the entity for MSO products owned by the entity at the end of the calendar year:
    - (i) the location of the site; and
    - (ii) the storage capacity, in megalitres, for each MSO product stored at the site; and
    - (iii) the nature of the ownership, lease or use by the entity; and
    - (iv) whether the site operated at any time during the calendar year on a basis that would have allowed others to store MSO products at the site; and
    - (v) if so, any prices publicly or commonly offered in relation to such storage;
  - (e) if the entity held stock under section 23 or 24 of the FS Act during the calendar year—details of the contracting entities, volumes and time periods of the legally enforceable arrangements which provided for those stocks to be held;
  - (f) if the entity owned stocks of MSO products which, under legally enforceable arrangements, were held by another entity subject to the MSO during the calendar year—details of the contracting entities, volumes and time periods of the legally enforceable arrangements;
  - (g) if the Australian controlling corporation (within the meaning of the FS Act) for the entity has changed during the calendar year—the name and contact details of the new Australian controlling corporation.
- (3) This section applies in relation to the 2022 calendar year and subsequent calendar years.

## **19G Reports—New MSO entities**

- (1) For the purposes of section 11 of the Act:
  - (a) a report must be given under that section if:
    - (i) a covered activity of importing or refining is undertaken in Australia, in relation to an MSO product during a calendar year; and
    - (ii) the entity undertaking the activity imported or refined more than the amounts applicable under section 17 of the MSO rules; and

- (iii) the regulated entity undertaking the activity is not subject to the MSO in relation to the MSO product under the FS Act; and
  - (b) the report must be given by the regulated entity that undertakes the covered activity; and
  - (c) the report must be given to the Secretary within 21 days after the end of the calendar year.
- (2) The report must include the following fuel information:
- (a) if the reporting entity is an importer—the total volume, rounded to the nearest megalitre, of MSO product imported by the entity in the previous calendar year, based on relevant N10 forms and N30 forms;
  - (b) if the reporting entity is a refiner—the total volume, rounded to the nearest megalitre, of MSO product refined by the entity in the previous calendar year;
  - (c) the entity’s total storage capacity, in megalitres, for each MSO product at the end of the calendar year and the location and capacity of each storage site.
- (3) This section applies in relation to the 2022 calendar year and subsequent calendar years.

## **19H Reports—Intermediary market participants**

- (1) For the purposes of section 11 of the Act:
- (a) a report must be given under that section if:
    - (i) the covered activity of storing stocks of MSO products that are held under section 19 of the FS Act for an entity subject to the MSO is undertaken in Australia during a relevant 6-month period; and
    - (ii) the regulated entity undertaking the activity is not subject to the MSO in relation to the MSO product under the FS Act; and
  - (b) the report must be given by the regulated entity that owns the stocks and is party to one or more legally enforceable arrangements under sections 23 or 24 of the FS Act; and
  - (c) the report must be given to the Secretary within 21 days after the end of the relevant 6-month period.
- (2) The report must include the following fuel information:
- (a) the entity’s total storage capacity, in megalitres, for each MSO product at the end of the relevant 6-month period;
  - (b) if the relevant 6-month period ends on a 31 December—for each storage site owned, leased or used by the entity for MSO products at that time:
    - (i) the location of the site; and
    - (ii) the storage capacity, in megalitres, for each MSO product stored at the site; and
    - (iii) the nature of the ownership, lease or use by the entity; and
    - (iv) whether the site operated at any time during the calendar year on a basis that would have allowed others to store MSO products at the site; and
    - (v) if so, any prices publicly or commonly offered in relation to such storage;
  - (c) details of the legally enforceable arrangements which provided for stocks of MSO products to be held by an entity subject to the MSO during the relevant 6-month period including the contracting entities, volumes and time periods of the arrangements.
- (3) In this section:

**relevant 6-month period** means:

- (a) the period beginning on 1 July 2022 and ending on 31 December 2022; and
- (b) each subsequent 6 month period.

## **19J Reports—Potential intermediary market participants**

- (1) For the purposes of section 11 of the Act:
  - (a) a report must be given under that section if:
    - (i) the covered activity of holding stocks of covered products that are MSO products is undertaken in Australia during the financial year beginning 1 July 2022; and
    - (ii) the regulated entity undertaking the activity is not subject to the MSO in relation to the MSO product under the FS Act; and
    - (iii) the site where the stocks are stored is capable of assisting entities to comply with the MSO through arrangements under section 23 or 24 of the FS Act, but has not done so during the financial year; and
  - (b) the report must be given by the regulated entity that undertakes the activity; and
  - (c) the report must be given to the Secretary within 21 days after the end of the financial year.
- (2) The report must include the following fuel information:
  - (a) the entity's total storage capacity, in megalitres, for each MSO product on 30 June 2023;
  - (b) for each storage site owned, leased or used by the entity for MSO products on 30 June 2023:
    - (i) the location of the site; and
    - (ii) the storage capacity, in megalitres, for each MSO product stored at the site; and
    - (iii) the nature of the ownership, lease or use by the entity; and
    - (iv) whether the site operated at any time during the financial year ending 30 June 2023 on a basis that would have allowed others to store MSO products at the site; and
    - (v) why the site has not stored stock for MSO entities under section 23 or 24 of the FS Act during the financial year.

## **19K Audit of MSO reports if concern about reports**

- (1) For the purposes of subsection 13B(1) of the Act, if the Secretary is concerned about the accuracy of information provided in a report under section 19E, 19F or 19H, the Secretary may, by written notice, require the person who submitted the report to obtain an audit report under this section about that report or the next report to be submitted by the person under section 19E, 19F or 19H, whichever applies.
- (2) The audit report must be prepared by a registered greenhouse and energy auditor in accordance with the requirements for reasonable assurance engagements under the NGER (Audit) Determination.
- (3) The audit to prepare the report must be about whether, in all material respects, the MSO information reported under this Subdivision was:
  - (a) prepared in accordance with this Subdivision; and
  - (b) fairly presented.



- (4) The report must be provided to the Secretary:
  - (a) if it relates to a report under this Subdivision already provided to the Secretary—no later than 90 days after being required; and
  - (b) if it relates to a report under this Subdivision yet to be provided to the Secretary—no later than 60 days after the day the report was due to be provided to the Secretary (or such other time agreed with the person and the Secretary).
- (5) The Secretary must not give a person a notice under subsection (1) more than once in each financial year unless a significant discrepancy is identified in the fuel information reported.