EXPLANATORY STATEMENT

CONSULTATION DRAFT

Petroleum and Other Fuels Reporting Act 2017
Petroleum and Other Fuels Reporting Rules 2017

[This is a draft explanatory statement for the draft Petroleum and Other Fuels Reporting Rules]

****Please Note****
The Minister for the Environment and Energy, the Hon. Josh Frydenberg MP has approved this draft explanatory statement for the purposes of consultation only.

Readers are advised that the *Petroleum and Other Fuels Reporting Bill 2017* has not been passed by the Commonwealth Parliament and the draft *Petroleum and Other Fuels Reporting Rules 2017 (**Rules**)* are indicative only and subject to change.

If you have any questions or comments on this draft Explanatory Statement please email the Department of the Environment and Energy at mrps@environment.gov.au

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Legislative basis

Section 41 of the *Petroleum and Other Fuels Reporting Act 2017* (the Act) provides that the relevant Minister may, by legislative instrument, make legislative rules prescribing matters required or permitted by the Act to be prescribed by legislative rules, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The Minister for the Environment and Energy, the Hon. Josh Frydenberg MP (the Minister) is the relevant Minister.

Purpose of the Instrument

The Act establishes a mandatory reporting regime for fuel and fuel-related information. The information collected under mandatory reporting will be used to monitor energy security, facilitate compliance with international reporting and stockholding obligations, and enable the publication of aggregate statistics for the use of business, investors, academics and government.

The Act provides that the Minister may make rules covering matters such as:

- who has an obligation to report information to the Secretary;
- what is a covered activity;
- what is a covered product;
- when reports must be provided to the Secretary;
- any exemptions from the reporting obligation;
- any reporting threshold;
- any reporting conditions. For example, the normalised temperature and pressure for the reporting of liquids to account for the impact of these factors on volume; and

- any other matters necessary or convenient to be prescribed for the carrying out or giving effect to this Bill.

The Rules set out the persons, activities and products prescribed as reportable by the Minister under sections 11 and 12 of the Act. Persons prescribed by the Minister would have an obligation to report information on their operations to the Secretary of the Department of the Environment and Energy (the Secretary). The Department of the Environment and Energy (the Department) would use this information to produce statistics on fuels and fuel-related products in accordance with the objectives of the Act.

The data collected by the Department would be used to develop the Australian Petroleum Statistics (APS), a statistical report which provides information on the production, refining, wholesaling and storage of petroleum and other fuels. The data would also be used to monitor energy security and compile reports to the International Energy Agency (IEA) on compliance with the obligation in the *Agreement on an International Energy Program* (IEP Treaty) to hold stocks equivalent to 90 days of the previous year's net oil imports.

The Rules provide for additional activities and products to be covered by the reporting obligation. The activity of operating a fuel storage terminal that is connected to a refinery or a port by a pipeline would be added as a covered activity, but would not be prescribed as reportable. The activity of processing natural gas liquid would be added and prescribed as reportable. The Rules also add natural gas, ammonia, white spirit or specific boiling point liquids and other refinery feedstocks as covered products. Most forms of natural gas would not be prescribed as reportable.

The Rules also set out the details of the reporting process. They would prescribe the reporting deadline, which for most activities is fifteen days after the end of the relevant calendar month. The Rules provide reduced reporting requirements or longer reporting periods for certain products, such as petroleum coke and lubricant. Schedule 1 of the Rules sets out the reporting categories and subcategories for products. Reporters must report the prescribed fuel information in these categories and subcategories to meet their reporting obligation.

Detailed description of the draft Rules

Attachment A outlines and describes the sections in the draft Rules.

Public Consultation

The creation of a mandatory reporting requirement for petroleum and other fuels has been subject to discussion with industry, government and international stakeholders such as the International Energy Agency since 2013.

The Department released a public consultation paper on mandatory reporting in September 2016, conducting consultation sessions in Perth, Melbourne, Sydney and Brisbane with industry stakeholders in October 2016. Separate consultation was undertaken with Commonwealth, state and territory agencies which use the APS or collect similar information. In response to the feedback received by the Department during this process, a Preferred Design Paper was released in December 2016.

The Department conducted further consultation on biofuels, petroleum coke and petroleum-based greases, lubricants, base oils, waxes and solvents in 2017 to respond to product specific issues raised in the earlier consultation process. This included the release of discussion papers on these products in February 2017. As a result of the feedback received from stakeholders, tailored reporting requirements are provided in these draft Rules for those products.

A draft of the Rules was released for consultation in May 2017 [this process].

[*To be revised once Rules are finalised*].

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PETROLEUM AND OTHER FUELS REPORTING RULES 2017

NOTES ON CLAUSES

Part 1 – Preliminary

1 – Name

1. Section 1 provides that the name of the Rules is the *Petroleum and Other Fuels Reporting Rules 2017*.

2 – Commencement

2. Section 2 provides that the Rules commence one day after they are registered.

3. Section 3 of the *Petroleum and Other Fuels Reporting (Consequential Amendments and Transitional Provisions) Act 2017* (Consequential Amendments) provides that the obligation to report information under the *Petroleum and Other Fuels Reporting Act 2017* (the Act) will commence on 1 January 2018 or the day that the Rules commence, whichever is earlier.

3 – Authority

4. Section 3 provides that the Rules are made under the Act. In particular, section 41 of the Act includes the power for the Minster to make legislative rules.

Division 2 – Definitions

5. This Division defines and clarifies the meaning of a number of terms. This includes prescribing new covered activities and covered products, and prescribing the circumstances where holding a contractual right to take possession of a covered product meets the definition of holding stock.

4 – Definitions

6. Section 4 of the Rules provides definitions of certain terms to support the operation of the Rules.

7. The definitions are discussed in this explanatory statement where they are relevant to explaining the operation of specific sections.

5 – Covered Activities

8. Section 5 of the Rules provides for additional activities to be added to the definition of covered activities in subsection 5(1) of the Act (to the extent that they are not covered by other paragraphs of that definition).

9. Section 5 prescribes the activity of "operating a fuel storage terminal that is connected to a refinery or a port by a pipeline" as a covered activity. This will enable data-sharing between the Department of the Environment and Energy (the Department) and the Australian Competition and Consumer Commission (ACCC). The ACCC collects information on this activity as part of its fuel industry monitoring role. Adding this as a

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covered activity is intended to ensure that this information can be shared with the Department, which intends to use the information to validate and support the statistics that would be produced from the data prescribed as reportable in the Rules. The ACCC consulted with terminal operators which would be affected by data-sharing in February 2017 and the proposed sharing of data was supported.

10. Section 5 prescribes as a covered activity "processing natural gas liquid". Natural gas liquids (NGLs) are listed as a covered product in the Act as they are used as an input in the production of transport fuels. However, there is potential for confusion over whether the processing of NGLs is producing or refining. This is because NGLs are produced through a process of separation which is undertaken at plants associated, but not necessarily directly connected with, gas production fields. To remove the potential for confusion, processing NGLs has been prescribed as a new covered activity and a separate reporting obligation is provided in relation to it in subsection 16(1) of the Rules.

11. The terms 'natural gas liquid' and 'natural gas condensate' are used interchangeably and sometimes inconsistently in the petroleum industry. In the Rules, the term NGL is intended to cover a liquid hydrocarbon product produced in plants from the output of natural gas wells. NGLs are also referred to as 'plant condensate' which is distinct from 'lease condensate' or 'field condensate', the latter two being condensate extracted directly, without processing, from oil or gas wells. Where the Rules prescribe a reporting obligation in relation to processing an NGL, this is intended to cover only liquid hydrocarbon product produced in plants. Where the Rules prescribe a reporting obligation in relation to producing condensate, this is intended to cover all condensate extracted directly from the ground without processing.

6 – Covered Product

12. Section 6 of the Rules prescribes additional products for the purposes of the definition of covered products in subsection 5(1) of the Act (to the extent that they are not already covered by another paragraph of that definition).

13. This section prescribes natural gas as a covered product. Natural gas is defined in section 4 as including NGLs, compressed natural gas (CNG), liquefied natural gas (LNG), methane and ethane.

14. The inclusion of natural gas as a covered product makes it clear that the Secretary's powers and responsibilities in relation to the collection and publication of fuel information covers natural gas. By prescribing natural gas as a covered product it would also be clear that the data-sharing authorisations in the Act and Consequential Amendments apply to information in relation to natural gas. Apart from NGLs, natural gas is not subject to reporting obligations under the Rules.

15. The inclusion of natural gas, being a fuel, would assist in delivering upon all three objectives provided in section 3 of the Act.

16. Section 6 also prescribes ammonia as a covered product where it is intended to be transformed at a later time into hydrogen for use as a transport fuel. Due to the

difficulty of storing and transporting hydrogen, some businesses may use ammonia as a form of storage, with the ammonia converted into hydrogen and nitrogen before the hydrogen is used as a transport fuel. The coverage of ammonia is intended to ensure that the use of hydrogen in the transport fuel supply chain can be properly captured.

17. The inclusion of ammonia, being a fuel, would assist in delivering upon the first and third objectives provided in section 3 of the Act.

18. Section 6 also prescribes white spirit or specific boiling point industrial spirit (the latter is referred to simply as "SBP" by the IEA) as a covered product. This is intended to ensure that Australia is able to develop statistics on this fuel which the IEA requires Australia to report as part of its monthly oil statistics report under clause 27 of the *Agreement on an International Energy Program* (IEP Treaty).

19. The IEA defines these products as follows:

White Spirit and SBP are refined distillate intermediates with a distillation in the naphtha/kerosene range. They are sub-divided as:

> Industrial Spirit (SBP): Light oils distilling between 30ºC and 200ºC. There are 7 or 8 grades of industrial spirit, depending on the position of the cut in the distillation range. The grades are defined according to the temperature difference between the 5% volume and 90% volume distillation points (which is not more than 60ºC).
>
> White Spirit: Industrial spirit with a flash point above 30ºC. The distillation range of white spirit is 135ºC to 200ºC.

20. The inclusion of white spirit or specific boiling point industrial spirit, being a fuel, would assist in the achievement of the second objective provided in section 3 of the Act.

21. Section 6 also prescribes other refinery feedstock as a covered product. This is intended to ensure that Australia is able to develop statistics on refining activity which the IEA requires Australia to report as part of its monthly oil statistics report under the IEP Treaty. Other refinery feedstocks may be fuels or fuel-related products.

22. The inclusion of refinery feedstock – other, when it is a fuel and when it is a fuel-related product, would assist in the achievement of the second objective provided in section 3 of the Act.

7 – Holding Stock – contractual rights

23. Section 7 of the Rules prescribes certain activities as being within the definition of holding a contractual right to take possession of a covered product for the purposes of the definition of holding stock in subsection 5(1) of the Act. This would mean that the activities are covered activities under the Act.

24. Paragraph 7(a) provides that where a person owns a covered product stored outside of Australia and has a contractual right to remove the product from storage, this falls

within the meaning of holding a contractual right to take possession of a covered product, and therefore the definition of holding stock at subsection 5(1) of the Act.

25. This means that where:

- an entity owns stock stored overseas; and
- the stock is in the possession of another entity (including a foreign affiliate or subsidiary) under a contract; and
- the entity owning the stock has a right under the contract to remove it from storage, then

this is a covered activity in relation to which a person can be made subject to a reporting obligation.

26. Reporting obligations for the holding of stock stored overseas as defined by paragraph 7(a) are prescribed at table item 2 of subsection 17(1) of the Rules.

27. All the elements listed at paragraph 25 must be satisfied for a reporting obligation to be able to be imposed under the Rules. This means that the person must own the stock, store it in a facility operated by a separate legal entity, and have a right to remove the stock. If any one of these elements is not satisfied, the stock is not required to be reported.

28. Paragraph 7(b) of the Rules provides that where a person has a right to receive stock currently in domestic shipping, this falls within the meaning of holding a contractual right to take possession of a covered product. The inclusion of domestic shipping is intended to align the reporting obligations with the rules set by the IEA on when stock held in tanker ships may be counted towards compliance with the oil stockholding obligation.

29. Section 4 would provide that stock is in domestic shipping where:

- The stock is held on a tanker ship (excluding the ship's bunker); and
- It is intended that the stock will be unloaded in Australia; and
- The tanker ship is either:
    i. At an Australian port, including ships both docked and awaiting docking; or
    ii. Travelling to an Australian port; and
- If the stock was loaded onto the tanker ship in a foreign port, the tanker ship has already unloaded a covered product of any kind at an Australian port.

30. Section 4 defines fuel stored in a ship's bunker as fuel stored for powering the ship.

31. All the elements listed at paragraph 29 must be satisfied for the reporting obligation to apply. Therefore, if stock loaded in Singapore is held on a tanker ship docked in

Fremantle for unloading, but the ship has not unloaded any fuel elsewhere in Australia since leaving Singapore, then the stock is not be reportable.

32. Reporting requirements for the holding of stock stored in domestic shipping as defined by paragraph 7(b) are prescribed in table items 3 and 4 of subsection 17(1) of the Rules.

Division 3 – Other provisions relating to the scope of this instrument

33. This Division sets out two exemptions from the reporting obligations prescribed in sections 16 and 17.

8 – Wholesaling to which this instrument does not apply

34. Section 8 of the Rules exempts from the wholesale reporting obligation prescribed at table items 7-9 of subsection 16(1) any covered product which is not subject to excise or customs duty, and is taken directly from an import terminal to a domestic production facility. For example, crude oil which is unloaded at an import terminal before being transported to an Australian refinery will, by virtue of this section, not be subject to the reporting obligation at table item 11 of subsection 16(1). The crude oil would be reportable when delivered, stored and used as an input in a refining process by an Australian refinery under table items 7 and 8 of subsection 16(1).

35. The intention of this clause is to prevent the unnecessary double reporting of covered products in wholesale reports when they are also required to be reported under refining or biofuel production reports.

36. The meaning of wholesale is defined at section 5 of the Bill as follows:

wholesaling a covered product means:

(a) entering a covered product for home consumption (within the meaning of the *Customs Act 1901* or the *Excise Act 1901*); or

(b) if a covered product is not subject to duty of excise or duty of customs—removing the covered product from an import terminal or domestic production facilities (such as a refinery); or

(c) if another activity is prescribed by the rules for the purposes of this paragraph for a kind of covered product—undertaking that activity in relation to the kind of product.

37. The definition of wholesaling is intended to align the reporting obligation for wholesales to actions that attract liability for excise or customs duty, or—if a product is not subject to excise—equivalent actions.

9 –Stock holding to which this instrument does not apply

38. Section 9 of the Rules would exempt from the stock reporting obligation prescribed at subsection 17(1) any stock held in a seagoing ship's bunker or for the exclusive use of the Australian Defence Force (ADF) or another military force.

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39. Stock in seagoing ships bunkers would be defined in section 4 as stock held for the purposes of powering a ship. This is in contrast to stock held in the hold of a tanker ship. Bunker fuel is not relevant to the production of statistics and is not allowed to be counted towards compliance with the IEA oil stockholding obligation.

40. Stock for the exclusive use of the ADF or another military force is stock that has been reserved for defence purposes. This stock cannot be counted towards compliance with the IEA oil stockholding obligation.

41. Commercial stocks that are not reserved, for example stock that may be sold to the ADF or another military force but have not yet been sold, are reportable.

42. The Act provides a number of additional exemptions to the obligation to report stocks, including exemptions for covered products:

- stored at a service station or retail store;
- stored in a personal vehicle (such as a motor car);
- stored in a road tanker, rail tank car or pipeline; and
- kept wholly or principally for private or domestic use.

Part 2 – Reports of fuel information

Division 1 – Preliminary

10 – Outline of this Part

43. The simplified outline provided here is intended to assist readers to understand the substantive provisions. The outline is not comprehensive and readers should rely on the substantive provisions to understand the operation of Part 2.

11 – Regulated entities

44. Section 11 of the Rules provides, consistently with section 11 of the Act, that the reporting obligations prescribed in sections 16 and 17 apply to covered activities undertaken by regulated entities.

45. The phrase ‘regulated entity’ is defined in section 5 of the Act. Section 12 of the Act extends the meaning of regulated entity in certain circumstances. Section 19 of the Rules would similarly extend the meaning of regulated entity in certain circumstances to enable the reporting obligations in sections 16 and 17 to be applied as broadly as possible within constitutional limits.

46. Where the term ‘regulated entity’ is hereafter used in this explanatory statement, the expanded meaning created by section 12 of the Act and section 19 of the Rules is intended unless otherwise specified.

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12 – Non-Reportable Natural Gas

47. Section 12 of the Rules exempts most types of natural gas from the reporting requirements set out in sections 16 and 17.

48. This means that compressed natural gas, liquefied natural gas, methane and ethane are not subject to the reporting requirements prescribed in the Rules. However, NGLs are subject to prescribed reporting requirements.

13 – Australian fields and plants

49. Section 13 of the Rules clarifies the meaning of certain terms in relation to the production and processing of covered products at fields and plants in Australia.

50. Subsection 13(1) provides that an Australian field means a field where crude oil, condensate or liquefied petroleum gas (LPG) is or was produced in Australia by a regulated entity. Field is used here in its ordinary meaning as understood by the upstream petroleum industry.

51. Subsection 13(2) provides that a reference to an Australian biofuel plant means a plant where transport biofuel is or was produced in Australia by a regulated entity. Plant is used as a generic term for a facility producing biofuels.

52. Transport biofuel is defined at section 4 of the Rules to mean biofuel that is able to be used as a transport fuel. Transport biofuel includes biofuel that can be used directly to power a vehicle such as a car, truck, ship or plane; and biofuel that would require blending with another covered product before being used.

53. Subsection 13(3) provides that a reference to an Australian natural gas liquid plant means a plant at which NGLs are or were produced in Australia by a regulated entity. Plant is intended to be used here in its ordinary meaning as understood by the natural gas industry.

54. Subsection 13(4) extends the meaning of Australian field, Australian biofuel plant and Australian natural gas liquid plant to include any storage facility in Australia to which a processed or produced covered product is transported to. For example, if crude oil is extracted from an onshore field and then transported to a terminal on the coast for storage until export, this terminal is taken to be part of the field for the purposes of reporting crude oil stored at a field under table items 1 and 2 of subsection 16(1) of the Rules.

55. The extension of the meaning of field and plant to cover storage facilities located offsite is intended to reduce the reporting burden by allowing producers and processors to report all their stocks at various facilities in the one report rather than having to submit a report under section 16 and under section 17 as well.

56. The obligation to include stocks stored off-site in production reports does not apply to stocks that have already been sold or exported from Australia. Where stocks have been exported they would no longer be reportable and when they are sold, the stock reporting obligation would apply to the new owner.

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57. Subsection 13(5) allows regulated entities to combine the stock volumes they report from multiple fields or plants into a single field or plant report. This is a discretionary choice for reporters and is intended to reduce the regulatory burden associated with reporting where a regulated entity holds stock from several fields or plants and combines these stocks at one or more locations. For example, where an entity owns stock produced from four separate fields and stores this at a single off-site facility, such as an export terminal, it may report all the stock as being from one field or allocate the stock against each of the four fields.

14 – Refineries and GLOWS facilities

58. Section 14 of the Rules provides definitions relevant to the reporting obligations of refiners.

59. Subsection 14(1) defines an Australian refinery as a refinery where covered product is or was refined in Australia by a regulated entity.

60. Paragraph 14(2)(a) defines input stock as a covered product which is an input into a refining process at a refinery.

61. Paragraph 14(2)(b) defines working stock as a covered product which is an intermediate output from a refining process at a refinery.

62. Paragraph 14(2)(c) defines output stock as a covered product which is an output from a refining process at a refinery and which is not working stock.

63. The purposes of these definitions is to apply the common industry understanding of inputs, working stocks and outputs to the reporting obligations at section 13 of the Rules.

64. Subsection 14(3) excludes GLOWS – petroleum based greases, lubricants, base oils, waxes and solvents – from the definitions in subsections 14(1) and 14(2). It also excludes GLOWS from the refining reporting obligation prescribed at table item 7 and 8 of subclause 16(1). Separate definitions for GLOWS are provided in subsections 14(4) and 14(5), and a specific reporting obligation for GLOWS re-refiners and recyclers is prescribed at table item 5 of subsection 17(1).

65. The term GLOWS is defined in section 4 as the covered products listed at items 15 to 18 in Schedule 1 of the Rules. That is:

- Lubricating oil base stock;
- Lubricant (which includes grease and a number of products referred to as types of oil);
- Petroleum-based solvent; and
- Paraffin wax.

GLOWS is used as a shorthand term as these products have similar reporting obligations.

66. Subsection 14(4) defines an Australian GLOWS facility as a refinery where GLOWS are recycled or re-refined by a regulated entity. Generally, a GLOWS facility recycles or re-refines waste lubricant, but other GLOWS may be processed.

67. Paragraph 14(5)(a) defines input stock as a covered product which is an input into a recycling or re-refining process at a GLOWS facility. For example, used lubricant which could be re-refined or recycled.

68. Paragraph 14(5)(b) defines working stock as a covered product which is an intermediate output from a recycling or re-refining process at a GLOWS facility.

69. Paragraph 14(5)(c) defines output stock as a covered product which is an output from a recycling or re-refining process at a GLOWS facility and which is not working stock. This is intended to cover products that result from a completed recycling or re-refining process, such as re-refined lubricating base oil stock or recycled fuel oil produced from used lubricant.

70. The intended operation of subsections 14(4) to 14(5) is to apply definitions of stock for GLOWS facilities that mirror the approach in the Rules for other refineries so far as it is appropriate.

15 – Holding Stock – entity who stores covered product disregarded if another entity holds contractual right to take possession

71. Section 15 of the Rules clarifies that where two entities are prescribed as having a reporting obligation under section 17 because one party is keeping the stock in storage and another party has a contractual right to take possession of the same stock, then the reporting obligation applies to the entity holding the contractual right to take possession, and the entity keeping the covered product in storage is exempted from the reporting obligation.

72. This is intended to clarify who has the reporting obligation where both the current owner and future owner have a prescribed reporting obligation under subsection 17(1). For example, if one company owns stock which is held in domestic shipping (as defined in section 4) and another company has the contractual right to take possession of the stock after it is unloaded, only the company holding the contractual right to take possession is required to report under subsection 17(1).

73. In circumstances where one entity is keeping stock in storage and another has a contractual right to take possession of the same stock, but only one of the entities is subject to prescribed reporting obligations under the Rules, then the entity that is subject to the prescribed requirements must report. Therefore, if a regulated entity keeps a covered product in storage and another entity has a contractual right to take possession of that stock at a later point, but the particular type of contractual right to take possession is not of a kind that is subject to prescribed reporting requirements under subsection 17(1) (that is it does not fall within the definition of holding stock), then the entity keeping the covered product in storage must report. For example, if a fuel wholesaler is keeping diesel in storage, but a retailer holds a contractual right for the diesel to be delivered to one of its service stations, then this arrangement would not

exempt the fuel wholesaler from a reporting obligation under section 17 because holding a right to retail a product held in storage is not an activity that attracts prescribed reporting obligations under the Rules.

Division 2 - Reports

16 – Reports - general

74. Section 16 of the Rules prescribes reporting obligations for a range of covered activities.

75. Subsection 16(1) sets out in a table the reporting requirements prescribed by the Minister. Paragraphs 16(1)(a)-(c) explain how the table should be interpreted. Subsection 16(2) sets the volume thresholds below which reporting obligations under the Act do not apply.

76. The table set out at subsection 16(1) prescribes the reporting obligations as follows:

- The covered activity and product/s which are subject to a reporting obligation are set out in Column 1.
- The person to whom the reporting obligation applies is stated in Column 2.
- The fuel information that must be reported is specified in Column 3.

Each table item should be read as a whole to understand the reporting obligation prescribed by the Minister.

77. Paragraph 16(1)(a) provides that only activities occurring in Australia are relevant to the reporting obligations prescribed under subsection 16(1). Production, processing, refining and wholesaling taking place outside of Australia is not covered by the obligations.

78. Paragraph 16(1)(c) provides that the fuel information prescribed in Column 3 must be reported using the categories and subcategories set out in Schedule 1. For example, to meet a reporting obligation under table item 7(b)(iv), on output stock held at a refinery, a person would need to report the refinery output of kerosene by each of the subcategories of jet fuel – international, jet fuel – domestic and kerosene – other.

79. The table set out at subsection 16(1) details the prescribed reporting obligations in relation to the following activities and associated holding of stock:

- production of crude oil, condensate and LPG (table items 1 and 2);
- production of biofuels (table items 3 and 4);
- processing of natural gas liquids (table items 5 and 6);
- refining covered products (table items 7 and 8); and
- wholesaling covered products (table items 9, 10 and 11).

80. The reporting period and reporting deadline is prescribed at section 18. Most covered activities are subject to reporting on a calendar month basis.

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Production of crude oil, condensate and LPG

81. Table items 1 and 2 of subsection 16(1) prescribe for the purposes of section 11 of the Act reporting obligations associated with the production of crude oil, condensate and LPG.

82. Column 1 of table item 1 prescribes the covered activity to which reporting obligations attach as producing crude oil, condensate or LPG at an Australian field.

83. Producing a covered product is defined in section 5 of the Act as:

> ***producing*** a covered product means recovering a covered product through a process of extraction or otherwise creating a covered product, but does not include refining a covered product.

84. An Australian field is a field where crude oil, condensate or liquefied petroleum gas (LPG) is or was produced in Australia by a regulated entity.

85. Column 2 of table item 1 imposes the reporting obligation on each person who first owns any crude oil, condensate or LPG when it is extracted or otherwise created. Where joint venture partners in a field each own a share of production, each joint venture partner would have a reporting obligation.

86. It should be noted that subsection 18(3) of the Rules would allow for a joint reporting obligation, such as that applying to a joint venture in an Australian field to be satisfied by the submission of a single comprehensive report. For example, the project manager for a field could submit a combined report on behalf of each joint venture partner.

87. Column 3 prescribes particular fuel information that must be reported to satisfy the reporting obligation under table item 1. This fuel information is the quantity of:

- crude oil, condensate and LPG stored at the field at the beginning of the month;
- crude oil, condensate and LPG transported to the field during the month;
- crude oil, condensate and LPG produced at the field during the month;
- crude oil, condensate and LPG consumed, flared or otherwise destroyed at the field during the month;
- crude oil, condensate and LPG transported away from the field during the month; and
- crude oil, condensate and LPG stored at the field at the end of the month.

88. When determining the quantity of crude oil, condensate or LPG stored at a field at the start and end of the month, the extended meaning of field under subsection 13(4) would apply. This means that offsite storage may form part of a field the purposes of satisfying the reporting obligations under table item 1.

89. The terms ‘transported to’ and ‘transported away’ from the field are intended to capture the introduction or removal of a covered product to or from a field and its associated storage. For example, when crude oil is sold, exported or transferred to a refinery it would be considered transported away from the field.

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90. Column 3 would exclude from the reporting obligation a covered product which had been sold or exported before the start of the relevant calendar month. For example, LPG sold on 17 May would not be required to be included in a report for the month of June, even if it had remained in the same storage facility throughout all of May and June. Instead, the LPG should be reported in the May report as transported away from the field. Where stock remains in a field's storage after it is sold, it may be captured by the stock reporting obligations at subsection 17(1) of the Rules. However, if a stock reporting obligation applied, it is the owner (i.e. the purchaser) who would be required to report.

91. Table item 2 prescribes the holding of crude oil, condensate or LPG at an Australian field at the start of the month as reportable. The reporting obligation applies to the owner of the stock and the fuel information that must be reported is the same as for item 1.

92. Table item 2 is intended to ensure that where no production takes place at a field in a month, for example due to maintenance, that changes such as reductions in stock levels are reported.

93. Where a field permanently ceases production, the reporting obligation would continue to apply under table item 2 until it ceased to meet the threshold prescribed at paragraph 16(2)(a). In the event that a field fell below the threshold, but still stored over 3kt of stock, then a residual reporting obligation could apply under subsection 17(1) of the Rules.

94. Paragraph 16(2)(a) relieves from the reporting obligations imposed by table items 1 and 2 any field which produced less than 3kt in total of crude oil, condensate and LPG the previous financial year. This means that if a field produced 2kt of crude oil, 0.7kt of condensate and 0.3kt of LPG in a financial year then a reporting obligation under table items 1 or 2 would apply.

Production of biofuels

95. Table items 3 and 4 of section 16(1) prescribe for the purposes of section 11 of the Act reporting obligations associated with producing biofuel.

96. Column 1 of table item 3 prescribes the covered activity to which reporting obligations attach as producing transport biofuel at an Australian biofuel plant.

97. Producing is defined in the Act, to include creating a covered product other than by refining it.

98. Transport biofuel is defined at section 4 of the Rules to mean biofuel that is able to be used as a transport fuel. This means biofuels unable to be used as a transport fuel do not attract reporting obligations.

99. Australian biofuel plant is defined at subsection 13(2) of the Rules to mean a plant where transport biofuel is or was produced in Australia by a regulated entity.

100. Column 2 of table item 3 imposes the reporting obligation on each person who first owns any biofuel created at the plant. This would generally be the owner of the Australian biofuel plant.

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101. Column 3 prescribes particular fuel information that must be reported to satisfy the reporting obligation under table item 3. This information is:

- The transport biofuel held at the plant at the start of the month;
- The transport biofuel created at the plant during the month; and
- The transport biofuel held at the plant at the end of the month.

102. The extended meaning of Australian biofuel plant under subsection 13(4) would apply when determining stock levels. This means that biofuel stocks held offsite, such as at a fuel storage terminal, are to be included when determining stock levels for reporting purposes.

103. Table item 4 prescribes the holding of biofuels at an Australian biofuel plant at the start of the month as reportable. This replicates the approach at table item 2 for fields and is intended to ensure that where no production takes place at a plant during a month, for example due to maintenance, that changes at the biofuel plant such as reductions in stock levels are reported.

104. Paragraph 16(2)(b) relieves from the reporting obligation any biofuel plant where less than 3kt of biofuel was produced in the previous financial year. If over 3kt of biofuel is held at a plant exempted under paragraph 16(2)(b), it may have a stock reporting obligation under subsection 17(1) of the Rules.

Processing of NGL

105. Table items 5 and 6 of section 16(1) prescribe for the purposes of section 11 of the Act reporting obligations associated with processing of NGL.

106. Column 1 of table item 5 prescribes the covered activity to which reporting obligations attach as processing NGL at an Australian plant.

107. Section 4 of the Rules defines processing as follows:

processing natural gas liquid means undertaking a process from which natural gas liquid is an output.

108. Column 2 of table item 5 imposes the reporting obligation on each person who first owns any NGL that is an output from the process.

109. Column 3 of table item 5 prescribes particular fuel information that must be reported to satisfy the reporting obligation. This information is:

- NGL stored at the plant at the beginning of the month;
- NGL transported to the plant during the month;
- NGL which is an output from the processing undertaken at the plant during the month;
- NGL which is consumed or destroyed at the plant during the month;
- NGL transported away from the plant during the month; and
- NGL stored at the plant at the end of the month.

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110. When determining the amount of NGL stored at an Australian natural gas liquids plant, the extended meaning created by subsection 13(4) applies.

111. The terms ‘transported to’ and ‘transported away’ from the plant are intended to capture the introduction or removal of NGL to or from a plant and its associated storage. For example, when NGL is sold, exported or transferred to a refinery it would be considered transported away from the field.

112. Table item 6 prescribes the holding of NGL at a plant at the start of the month as reportable. The reporting obligation applies to the owner of the stock and the fuel information that must be reported is the same as for item 5.

113. The intention of table item 6 is to ensure that where a plant does not produce NGL in a month that changes in the other categories of fuel information are reportable.

114. Paragraph 16(2)(c) relieves from the reporting obligation prescribed at table items 5 and 6 any NGL plant where less than 3kt of NGL was produced in the previous financial year. If over 3kt of NGL is held at a plant exempted under paragraph 16(2)(c), a residual stock reporting obligation may still apply under subsection 17(1) of the Rules.

Refining a covered product

115. Table items 7 and 8 in subsection 16(1) prescribe for the purposes of section 11 of the Act reporting obligations associated with refining covered products.

116. Column 1 of table item 7 prescribes the covered activity to which reporting obligations attach as refining a covered product at an Australian refinery.

117. Refining is defined in section 5 of the Act as:

refining a covered product means transforming a covered product into another covered product, or recycling or re-refining a covered product.

118. An Australian refinery would be defined in subsection 14(1) of the Rules as a refinery at which a covered product is or was refined in Australia by a regulated entity. Subsection 14(3) provides that a facility which only recycles or re-refines GLOWS is not an Australian refinery. Accordingly, where a refinery produces GLOWS and other covered products such as diesel and bitumen it would be covered by table item 7. However, if a facility only recycles or re-refines GLOWS (i.e. a GLOWS facility) it would not be prescribed under table item 7 or table item 8.

119. GLOW recyclers and re-refiners may have reporting obligations under other provisions of the Rules

120. Column 2 of table item 7 would place the reporting obligation on each person who first owns a covered product which is an output from the refining process. This would generally be the owner of the refinery.

121. Column 3 of table item 7 would prescribe the particular fuel information that must be reported to satisfy the reporting obligation. This information is split between different types of stock.

122. For input stock, the required fuel information is:

- Input stock held at the refinery at the start of the month

- Input stock delivered to the refinery during the month;
- Input stock entered into the refining process during the month; and
- Remaining input stock held at the refinery at the end of the month.

When reporting this fuel information, reporters must report whether the input stock was imported or produced domestically. For example, when reporting the crude oil delivered to the refinery in a month, a reporter must specify the proportion produced in Australia and imported from overseas.

123. For working stock and output stock, a person required to submit a report under table item 7 must report the quantities of:

- Working stock held at the start of the month;
- Working stock held at the end of the month;
- Output stock held at the start of the month; and
- Output stock held at the end of the month.

124. Input stock, working stock and output stock would be defined in subsection 14(2) of the Rules. These definitions are intended to align with current reporting categories and industry usage.

125. When reporting input stock, working stock and output stock, a reporter must report using the relevant categories and subcategories set out in Schedule 1 of the Rules.

126. When reporting working stock, a reporter should report using the categories and subcategories that the working stock is being transformed into through the refining process.

127. Schedule 1 specifies a number of fuels that are to be broken down according to whether they are for international and domestic use. When reporting outputs, a refiner may not know whether a covered product will be used for international or domestic purposes. For example, a refinery may refine low sulphur fuel oil and then sell this product to a marine fuel retailer in Brisbane. In such a circumstance, the refinery may not know the proportion of fuel oil which will ultimately be sold to domestic and international shipping. If a refiner is unsure whether a product will be sold for domestic or international purposes, their report should apportion the product between these categories as accurately as possible, based on expected sale ratios for the product. For example, applying the example of marine fuel oil above, a refiner could apportion the low sulphur fuel oil between international and domestic shipping on the basis of expected sales ratios or the split between international and domestic shipping at the port of Brisbane. This estimated apportionment approach is applicable to the subcategories of:

- aviation gasoline—domestic and aviation gasoline—international;
- marine diesel—international and marine diesel—domestic;
- fuel oil: marine—high sulphur and international and marine—high sulphur and domestic;

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- fuel oil: marine—low sulphur and international and marine—low sulphur and domestic; and
- marine oils—coastal and marine oils—international;

128. Table item 8 would prescribe a reporting obligation where input stock or output stock is held at an Australian refinery at the start of the month but no outputs are produced in that month. This reporting obligation applies to the person who owns the stock and the reportable fuel information is the same as for table item 7.

129. The intention of table item 8 is to ensure that where a refinery does not produce any output stock in a month that changes in relevant fuel information is reportable. This ensures that stock held at a refinery undergoing maintenance continues to be reported.

130. Stocks held at GLOWS facilities are excluded from the reporting obligation at table item 8 due to the definitions of input, working and output stock at section 14(2). These stocks are subject to a reporting obligation under 17(1).

131. Paragraph 16(2)(d) relieves from the reporting obligations any refinery which had a total output of covered products less than 3kt in the previous financial year. If over 3kt of covered products are held at a refinery exempted under paragraph 16(2)(d), there may still be a residual stock reporting obligation under subsection 17(1).

Wholesaling

132. Table items 9 – 11 of subsection 16(1) prescribes for the purposes of section 11 of the Act reporting obligations in relation to wholesaling. Table item 9 applies to petroleum coke, table item 10 applies to GLOWS, and table item 11 applies to other covered products.

133. Wholesaling is defined in the Act at section 5 as:

wholesaling a covered product means:

(a) entering a covered product for home consumption (within the meaning of the *Customs Act 1901* or the *Excise Act 1901*); or

(b) if a covered product is not subject to duty of excise or duty of customs—removing the covered product from an import terminal or domestic production facilities (such as a refinery); or

(c) if another activity is prescribed by the rules for the purposes of this paragraph for a kind of covered product—undertaking that activity in relation to the kind of product.

134. The Rules do not prescribe an activity for the purposes of paragraph (c) of the definition of wholesaling in the Act.

135. Table items 9-11 prescribes that the fuel information is to be broken down by state marketing area. State marketing area is defined in section 4 as:

State marketing area, in relation to wholesaling a covered product, means:

(a) the State or Territory in which it is expected that the covered product will be consumed, or sold for final consumption; or

(b) if the State or Territory mentioned in paragraph (a) is not known—the State or Territory in which the wholesaling occurs.

136. This means that when reporting wholesales, regulated entities should report the State where they expect the product will be consumed or sold for final consumption. For example, if a regulated entity enters for home consumption 10ML of diesel in Brisbane, but plans to sell 2ML of this in northern New South Wales, then it should report 8ML as wholesaled in Queensland and 2ML in New South Wales.

137. If the State of final consumption or sale is not known, a reporter should report the State or Territory where they triggered the obligation to pay excise or customs duty or removed the product from an import terminal or domestic production facility. For example, if a regulated entity enters for home consumption 10ML of diesel in Brisbane and on-sells this to another business which retails fuel in Queensland and New South Wales and the regulated entity does not know where the fuel will be sold to motorists, then it should simply report 10ML of wholesales in Queensland.

Wholesaling - Petroleum Coke

138. Table item 9 in subsection 16(1) prescribes for the purposes of section 11 of the Act reporting obligations associated with wholesaling petroleum coke.

139. Column 1 of table item 9 prescribes the covered activity to which reporting obligations attach as wholesaling of petroleum coke.

140. Petroleum coke is not subject to excise or customs duty for the purposes of entering a covered product for home consumption within the meaning of the *Customs Act 1901* or the *Excise Act 1901*. The reportable action would therefore be removing petroleum coke from an import terminal or Australian refinery.

141. Column 2 imposes the reporting obligation on the regulated entity that removed the petroleum coke from an import terminal or refinery. This would generally be the owner of the product. For example, an aluminium smelter which imported petroleum coke for use in the production of aluminium would be expected to report the amount of petroleum coke they had acquired.

142. Column 3 of table item 9 prescribes the fuel information that must be reported to satisfy the reporting obligation. This information is the quantity (e.g. tonnes) of petroleum coke wholesaled during the financial year by state marketing area.

143. Paragraph 16(2)(e) relieves from the wholesale reporting obligation any regulated entity which wholesaled less than 3kt of covered products during the previous financial year. Therefore, if an entity only wholesaled 2kt of petroleum coke and no other covered product in the previous financial year, then it would not have a reporting obligation. A residual stock reporting obligation may apply under subsection 17(1) where 3kt or more of petroleum coke is held at the end of the financial year.

144. Subsection 18(1) of the Rules imposes less frequent reporting on wholesalers of petroleum coke compared to that for other covered products. This reduced reporting requirement has been developed in consultation with petroleum coke wholesalers. Petroleum coke consumption and stock levels change little month to month, so annual data supported by data-sharing with other government agencies will enable reliable

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monthly estimates to be produced. These reporting requirements minimise the regulatory burden and align the reporting process prescribed in the Rules with existing reporting requirements under the National Greenhouse and Energy Reporting Scheme (NGERS).

Wholesaling - GLOWS

145. Table item 10 in subsection 16(1) prescribes for the purposes of section 11 of the Act reporting obligations associated with wholesaling GLOWS.

146. Column 1 of table item 10 prescribes the covered activity to which reporting obligations attach as wholesaling GLOWS.

147. The term GLOWS is defined in section 4 of the Rules as the covered products listed at items 15 to 18 in Schedule 1, which are:

- Lubricating oil base stock;
- Lubricant (which includes grease and a number of products referred to as oils);
- Petroleum-based solvent; and
- Paraffin wax.

148. Some, but not all, GLOWS are subject to excise or customs duty. Therefore, for products subject to excise or customs duty, such as lubricant, the relevant reportable action will be entering the product for home consumption under the Product Stewardship for Oil (PSO) Program. For products not subject to excise or duty, such as paraffin wax, the relevant activity will be removing the product from an import terminal or domestic production facility such as a refinery.

149. Section 8 would mean that if a GLOWS, such as lubricating base oil, was removed from an import terminal and then taken to a refinery to be used as an input into the refining of other covered products, such as lubricant and grease, then the removal of the lubricating base oil would not be reportable as a wholesale.

150. Column 2 of table item 10 imposes the reporting obligation on the regulated entity that wholesaled the product.

151. Column 3 of table item 10 prescribes the fuel information that must be reported to satisfy the reporting obligation. This information is the reportable quantity of GLOWS (which may be volume or weight depending on the type of GLOWS) wholesaled during the reporting period, separated by state marketing area and the categories and sub-categories prescribed in Schedule 1.

152. Paragraph 16(2)(e) relieves from the reporting obligation any entity which wholesaled less than 3kt of covered products in total during the previous financial year. A residual stock reporting may apply under subsection 17(1) of the Rules if a regulated entity holds over 3kt of GLOWS at the end of a reporting period.

153. It should be noted that a separate stock reporting obligation applies under subsection 17(1). This includes a specific reporting requirement for recyclers and re-refiners of GLOWS.

154. Subsection 18(1) of the Rules imposes less frequent reporting on wholesalers of GLOWS compared to that for other covered products. This reduced reporting requirement has been developed in consultation with GLOWS wholesalers and is intended to minimise the reporting burden on these businesses, many of which wholesale relatively small amounts of GLOWS for specialised purposes and report wholesales for some GLOWS under the PSO Program. The Department envisions that a combination of six monthly reports, data-sharing by the Australian Taxation Office on PSO Program data and estimation will enable reasonably accurate monthly statistics on GLOW wholesales to be developed.

Wholesales – All Other Products

155. Table item 11 in subsection 16(1) prescribes for the purposes of section 11 of the Act reporting obligations associated with wholesaling covered products which are not petroleum coke or GLOWS.

156. Column 1 of table item 11 prescribes the covered activity to which reporting obligations attach as wholesaling a covered product (other than petroleum coke or GLOWS).

157. The wholesaling of some covered products is excluded from the reporting obligation prescribed at table item 11, including:

- Natural gas covered by section 12. This includes compressed natural gas, liquefied natural gas, methane and ethane.
- Covered products transferred directly from an import terminal to a domestic production facility for use as an input into production as per section 8. For example, crude oil removed from an import terminal and transported directly to an Australian refinery would not be reportable under table item 11.

158. Column 2 of table item 11 imposes the reporting obligation on the regulated entity that undertook the wholesaling.

159. The majority of covered products are subject to excise and/or customs duty. For these products, the reporting obligation would apply to the person who entered the product for home consumption. That is, the person who paid excise or custom duty on the product is prescribed as required to report, even if the payment was done on behalf of a third party. For example, if a regulated entity pays excise on behalf of another entity which does not hold an excise license, the regulated entity that paid the excise has the reporting obligation.

160. Some covered products, such as bitumen or jet fuel supplied to a departing international aircraft, are not subject to excise or customs duty. For these products, the reporting obligation would apply to the person who removed the product from an import terminal or domestic production facility.

161. Column 3 of table item 11 prescribes the fuel information that must be reported to satisfy the reporting obligation. This information is the reportable quantity (which may be volume or weight) of covered products wholesaled during the month, separated by state marketing area and the categories and sub-categories prescribed in Schedule 1.

162. Paragraph 16(2)(e) relieves from the reporting obligation any entity which wholesaled less than 3kt of covered products in total the previous financial year. For example, if a

company only wholesaled 2kt of diesel it would not have a reporting obligation. However, if a company wholesaled 2kt of diesel and 1kt of regular unleaded gasoline then it would have a reporting obligation.

163. Subsection 18(1) of the Rules sets a reporting period of a calendar month and a reporting deadline of 15 days for reports required under table item 11.

14 – Holding stock

164. Section 17 of the Rules prescribes reporting obligations in relation to the covered activity of holding stock of a covered product.

165. Holding stock is defined in section 4 of the Act as:

holding stock of a covered product means:

(a) keeping a covered product in storage (whether on land or at sea), but does not include:
  (i) storing a covered product in a service station, retail store, personal vehicle, road tanker, rail tank car or pipeline; or
  (ii) keeping a covered product wholly or principally for private or domestic use; or

(b) holding, in circumstances prescribed by the rules for the purposes of this paragraph, a contractual right to take possession of a covered product.

166. Section 7 of the Rules prescribes two circumstances where holding a contractual right to take possession of a covered product would fall within the meaning of holding stock under paragraph (b) of the definition.

167. Section 9 of the Rules exempts from the reporting obligations prescribed in subsection 17(1) stocks that are stored in ships' bunkers and military stocks.

168. Section 5 of the Act excludes certain types of stock from the meaning of holding stock. These are therefore not covered activities and do not attract reporting obligations under the Act.

169. The meaning of 'private or domestic use' is explained in the Explanatory Memorandum to the Act at paragraph 46 as follows:

> The exclusion of stocks for private or domestic use from the definition of holding stock is not intended to cover stocks held for commercial use. For example, if a mining company imported diesel from an overseas supplier to use in its own operations, it would be required to report the stock that remained in storage at the end of the month.

Therefore, it is only stocks held for personal and private household consumption that are not reportable.

170. Subsection 17(1) sets out in a table the reporting obligations prescribed by the Minister. Paragraphs 17(1)(a)-(c) explain how the table should be read, which is that:

- The activity (keeping a covered product in storage or holding a contractual right to take possession of a covered product) and covered products which are subject to the reporting obligation are set out in Column 1.

- The person to whom the reporting obligation applies is stated in Column 2.
- The fuel information that must be reported is specified in Column 3.

171. Each table item should be read as a whole to understand the reporting obligation prescribed by the Minister.

172. The reporting period and reporting deadline are prescribed in section 18.

173. The reporting requirements in relation to holding stock are provided in a separate table due to a number of specific technical requirements for stockholding reports. These issues include:

- Stock may only be subject to a reporting obligation when it is in a particular location. For example, certain types of stock stored outside Australia are prescribed under table item 2.
- Stock may only be subject to the reporting obligation when it is subject to a particular type of contractual relationship. For example, domestic shipping under table item 3.
- Specific fuel information may need to be collected for stocks in certain locations or subject to certain contractual relationship. For example, the prescribed fuel information for table item 2 includes the country where the stock is located.

174. The reporting requirements in subsection 17(1) are intended to align with the approach of the IEA Secretariat when determining compliance with the IEA oil stockholding obligation. This means that stock is generally only required to be reported when it is relevant to compliance with the IEA oil stockholding obligation.

175. The Department intends to continue its current practice of collecting data on stocks which are not relevant to IEA compliance. However, reporting of non-IEA stock would remain voluntary.

General stock reporting obligation

176. Table item 1 of subsection 17(1) of the Rules prescribes for the purposes of section 11 of the Act a general stock reporting obligation.

177. Column 1 provides that unless table items 2 to 5 apply to reportable stock, then the stock is reportable under table item 1.

178. Table item 1 is intended as a 'catch all provision'. Any stock that is not covered by table items 2 to 5 or excluded by the Act or the Rules is prescribed. No stock stored outside Australia is prescribed under table item 1, due to the application of subsection 17(2). The Act or the Rules also exclude the following types of stock from the reporting obligation:

- Stock held wholly or principally for private or domestic (i.e. household) use;
- Stock held in a service station or retail store;
- Stock held in a personal vehicle, road tanker, rail tank car or pipeline;
- Stock held in a ship's bunker; and

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- Stock held exclusively for the use of the Australian Defence Force or another military.

179. Column 2 prescribes that the reporting obligation applies to the regulated entity who holds the stock.

180. For the purposes of Column 2 of table item 1, the owner of the stock is the person who is required to report.

181. Column 3 prescribes that the fuel information is the total weight of the stock held in each State marketing area.

182. State marketing area would be defined in section 4 as:

State marketing area, in relation to wholesaling a covered product, means:

(a) the State or Territory in which it is expected that the covered product will be consumed, or sold for final consumption; or

(b) if the State or Territory mentioned in paragraph (a) is not known—the State or Territory in which the wholesaling occurs.

183. If a quantity of fuel oil is held on the last day of the month in Melbourne, but the owner of the stock knows that they will transport the fuel oil to South Australia and sell the fuel oil to domestic shipping at Port Adelaide, then the relevant state marketing area for the fuel oil remains Victoria. This is because the fuel oil is held in Victoria at the relevant point in time.

184. When reporting under table item 1, the fuel information must be separated into the relevant categories and sub-categories set out at Schedule 1.

185. When reporting stockholdings, it may not always be clear whether fuel will be used for an international or domestic purpose. For example, a fuel wholesaler may own kerosene jet fuel at Port Botany, but not know whether this fuel will be used by international or domestic flights out of Sydney Airport. In such circumstances it is acceptable for a reporter to apply an estimated apportionment between the international and domestic categories when reporting fuel stocks.

186. The reporting period is specified at subsection 18(1). For the fuel information prescribed under table item 1 it would be a calendar month.

Stocks kept in storage outside Australia

187. Table item 2 prescribes a reporting obligation for stocks held outside Australia.

188. Column 1 prescribes for the purposes of section 11 of the Act a reporting obligation for regulated entities where they hold stock outside Australia in certain circumstances. The circumstances are set out at paragraph 7(1)(a) and are that:

- The stock is stored outside Australia; and
- The stock is owned by a regulated entity in Australia; and
- The stock is held in connection with the regulated entity's Australian business. That is, the stock is intended to be sold or otherwise consumed in Australia; and

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- The stock is in the possession of another entity under contract. For example, a third party storage provider or the regulated entity's affiliate or subsidiary is the owner of the storage where the stock is stored; and
- The entity owning the stock has a right under the contract to remove it from storage. For example, if the regulated entity owns the stock but could not take the stock out of storage and send it to Australia under local law, it is not reportable; and
- The stock is not otherwise exempted or excluded under the Act or these Rules.

189. Column 2 of table item 2 imposes the reporting obligation on the person who owns the stock.

190. Column 3 of table item 2 prescribes the fuel information that must be reported to satisfy the reporting obligation. This information is the weight of the stock, the country it is located in, and the relevant categories and subcategories in Schedule 1.

191. Where an Australian company holds a covered product outside of Australia, but the covered product is not held in connection with their Australian business, it is not reportable.

Stocks in domestic shipping

192. Table items 3 and 4 prescribe for the purposes of section 11 of the Act a specific stock reporting obligation where stock is held in domestic shipping.

193. Column 1 of table items 3 and 4 prescribes as reportable stock which meets the conditions at paragraph 7(1)(b), noting the definition of domestic shipping at section 4. These conditions are that:

- The stock is currently held on a tanker ship (excluding the ship's bunker);
- It is intended that the stock will be unloaded in Australia;
- The tanker ship is either:
    i. At an Australian port, including tanker ships docked and those awaiting docking; or
    ii. Travelling to an Australian port.
- If the stock was loaded onto the tanker ship in a foreign port, the tanker ship has already unloaded a covered product of any kind at an Australian port.

194. These conditions are intended to align with what the IEA terms inter-coastal shipping.

195. As per subsection 17(3), stock will be considered to be in domestic shipping even if at the end of the month the tanker ship where it is held is outside Australia's territorial waters. This may occur when a tanker is travelling between two Australian ports, such as between Darwin and Townsville, where a ship may enter international waters during its journey between the two ports.

196. Column 2 of table item 3 places the reporting obligation on the entity that holds a contractual right to take possession of the stock after it is unloaded in Australia.

197. Column 2 of table item 4 places the reporting obligation on the entity that owns the stock in the tanker ship.

198. The intended operation of the reporting obligations in table items 3 and 4 is to ensure that an Australian-based business always has a reporting obligation in relation domestic shipping. In some cases, Australian companies own covered products held in domestic shipping, while in other cases, companies hold a contractual right to take possession once the fuel is unloaded and the fuel is owned by the shipping company or an overseas-based fuel wholesaler during transportation to Australia. Section 15 means that where an entity has the contractual right to take possession and another entity owns the stock, that the entity with the contractual right must report. This is because the owner in such a situation may be based overseas and it would be inappropriate to require them to report.

199. Column 3 of table items 3 and 4 requires the same information as for the general stock reporting obligation under table 1, with the exception that there is no need to report the state marketing area as the stock is still in transit.

Stock at a GLOWS facility

200. Table item 5 prescribes for the purposes of section 11 of the Act a stock reporting obligation for stocks held at a GLOWS facility.

201. A GLOWS facility is defined in subsection 14(4) as a refinery at which GLOWS are recycled or re-refined in Australia by a regulated entity.

202. Recycling is the process of turning a used petroleum-based substance into a new covered product. For example, waste lubricant may be recycled into fuel oil. Re-refining is the process of turning used lubricants into lubricating oil base stock which can be used to create new lubricant.

203. Column 1 would prescribe as reportable all covered products held at GLOWS facilities that are input stock, working stock or output stock.

204. Column 2 would place the reporting obligation on the regulated entity that owns the stock. This would generally be the business which operates the recycling or re-refining facility.

205. Column 3 would require the same fuel information as for the general stock reporting obligation under table 1, with the added requirement that the stock be reported in the categories of input stock, working stock and output stock.

Reportable Locations

206. Subsection 17(2) limits the reporting obligation in table items 1 and 5 to stock held in Australia. This means that the general stock reporting obligation and the GLOWS facility stock reporting obligation do not apply to stock outside of Australia.

207. Subsection 17(3) extends the reporting obligation in table items 2 to 4 to stock both in Australia and stock that is outside Australia when it is held in connection with a business carried on in Australia.

Where stock must be reported under sections 16 and 17

208. Subsection 17(4) provides that where stock would be reportable under section 16 that it is not required to be re-reported under section 17.

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209. The reporting obligations for Australian fields, Australian biofuel plants, Australian natural gas liquid plants and Australian refineries in section 16 include stock reporting obligations where relevant to these operations. The intention of subsection 17(4) is to ensure that subsection 17(1) does not impose an obligation to report the same stock information twice.

Threshold

210. Subsection 17(5) establishes reporting thresholds on the stock reporting requirements imposed by subsection 17(1), in accordance with section 13(2) of the Act.

211. The threshold for stock reporting created by subsection 17(5) is a two limb test. A person must satisfy both limbs of the test to be relieved of the reporting obligations created by subsection 17(1).

212. The first limb of the test is that the person must have wholesaled less than 3kt in total of reportable products during the previous financial year. This is the same threshold as that applied in paragraph 16(2)(e) for wholesale reporting. Therefore, if a person has an obligation to report wholesales under subsection 16(1) they must also report stocks under section 17.

213. The second limb of the test is that at the end of the relevant reporting period, a person holds less than 3kt of reportable stock in total over table items 1 to 5 of subsection 17(1).

214. The impact of the second limb is that if a person who does not have a wholesale reporting obligation under subsection 16(1), holds:

- 3kt or more of reportable stock, excluding petroleum coke and GLOWS, at the end of a month,
- 3kt or more of GLOWS at the end of a calendar or financial year, or
- 3kt or more of petroleum coke at the end of a financial year,

Then this person must report their stock holdings.

215. Therefore, even if a person did not wholesale 3kt of covered products in the previous financial year, they must still report their stocks if they are holding 3kt of stock at the end of a relevant reporting period. This is intended to ensure those holding significant stocks report them to the Secretary.

Clause 18 – Reporting Period and Giving Reports

216. Section 18 of the Rules prescribes the reporting requirements where a person prescribed under sections 16 or 17 is required to provide a report.

Reporting Periods and when reports must be given

217. Subsection 18(1) prescribes both the reporting period for a covered activity in relation to a covered product and the reporting deadline (the period within which a report on a covered activity in relation to a covered product must be provided to the Secretary of the Department in accordance with section 11(4)(c) of the Act).

218. The table at subsection 18(1) sets out the reporting requirements as follows:

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- Column 1 specifies the covered activity to which the table item applies.
- Column 2 prescribes the reporting period.
- Column 3 prescribes the reporting deadline.

219. Table item 1 would prescribe the general reporting requirements which would apply unless a different reporting obligation is prescribed in another table item.

220. The general reporting requirements are that:

- The reporting period is a calendar month; and
- The reporting deadline is 15 days after the end of the relevant calendar month.

221. These general reporting requirements apply to the following prescribed reporting obligations:

- Crude oil, condensate and LPG production reports under table items 1 and 2 of subsection 16(1).
- Biofuel production reports under table items 3 and 4 of subsection 16(1).
- NGL processing reports under table items 5 and 6 of subsection 16(1).
- Refining reports under table items 7 and 8 of subsection 16(1).
- Wholesaling reports under table item 11 of subsection 16(1).
- Stock holding reports under table items 1 to 4 of subsection 17(1), except where the stock held is either petroleum coke or a GLOWS.

222. For example, this would mean that a refining activity report prescribed at table item 7 of subsection 16 must be compiled each month and submitted to the Secretary within 15 days of the end of that month. For example, the report for January 2018 will be due on 15 February 2018.

223. Table item 2 would prescribe a longer reporting period and reporting deadline for petroleum coke. Specifically:

- The reporting period is a financial year; and
- The reporting deadline is 4 months after the end of the financial year (31 October).

224. Therefore reports on wholesaling and holding stock of petroleum coke would be due once per year, by 31 October.

225. Table item 3 prescribes a longer reporting period and reporting deadline for reports on GLOWS. Specifically:

- The reporting period is six months (1 January to 30 June and 1 July to 31 December); and
- The reporting deadline is 31 days after the end of the reporting period (31 July and 31 January).

226. Therefore reports on wholesaling and holding stocks of GLOWS (including at re-refining and recycling facilities) would be due every six months, by the end of the following month.

227. Subsection 18(2) provides that the reporting deadlines in Column 3 are not changed when the end of the reporting period falls on a weekend or public holiday.

Reports only need to be given by one person

228. Subsection 18(3) provides an exemption from the reporting obligation where another person has already submitted the prescribed information for a particular covered activity in relation to a covered product.

229. This section is intended to make clear that where one person reports on behalf of another that this would remove any obligation on the person prescribed to report this information again.

230. For example, the output from a production field may be owned in proportion by multiple parties in a joint venture. In the event that one owner or their agent submits the prescribed fuel information for the entire production field, then this would satisfy the reporting obligation for all owners.

Division 3 – Extended application of this Part

19 – Extended application of this Part

231. Section 19 of the Rules extends the application of the reporting obligation in sections 16 and 17 to entities that are not regulated entities in certain circumstances.

232. A regulated entity is defined in the Act as:

regulated entity means:

(a) a constitutional corporation; or

(b) a trust, all of the trustees of which are constitutional corporations; or

(c) a body corporate that is incorporated in a Territory; or

(d) a body corporate that is taken to be registered in a Territory under section 119A of the Corporations Act 2001; or

(e) a trust, if the proper law of the trust and the law of the trust's administration are the law of a Territory; or

(f) an entity, the core or routine activities of which are carried out in or in connection with a Territory.

233. Section 13 of the Act extends the application of section 11 of the Act in certain circumstances. Section 19 is intended to replicate this extension to the reporting obligations prescribed in these Rules.

Part 3 – Application and transitional provisions

Division 1 – Application of this instrument

Clause 100 – Application of this instrument

234. This section specifies when the obligations imposed by these rules commence and establishes a transitional reporting obligation for petroleum coke.

235. Subsection 100(1) provides that the reporting obligations in Part 2 of these Rules commence on or after 1 January 2018.

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236. Subsection 100(2) provides a different reporting treatment for petroleum coke, to require a one-off report on 31 October 2018 on petroleum coke wholesales between 1 January and 30 June 2018, and stock holdings on 30 June 2018. This is intended to avoid an outcome where the first prescribed report for petroleum coke would not be due until 31 October 2019.

237. Subsection 100(3) clarifies the application of sections 16 and 17 to relevant covered activities that are undertaken on or after 1 January 2018.

Schedule 1 – Categories and subcategories of covered product

Clause 1 – Categories and subcategories of covered product

238. This clause prescribes the categories and subcategories that fuel information must be reported against when prescribed under Part 2 of the Rules.

239. Column 1 sets the category and Column 2 sets the subcategory. All products must be reported to the subcategory level where reporting is prescribed.

240. The meaning of international, domestic and coastal when used in subcategories is defined in section 4 of the Rules. The intention of these distinction is to identify any covered products that have been supplied to a boat or plane departing Australian. This distinction is important to enable the impact of international aviation and shipping to be accounted for in national statistics and may be relevant to determining Australia's net import levels under IEA rules.

241. The meaning of high and low sulphur is defined in section 4. The International Maritime Organisation recently revised international standards on sulphur content in ship bunker fuels and this distinction will help to track the impact and implementation of this requirement in Australia.

242. The meaning of refinery feedstock – other is defined in section 4. The purpose of this category is to capture all other additives to the refining process, regardless of whether the additive is a fuel or fuel-related product. This category would cover feedstocks such as aromatics.

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