



## **Australian Institute of Petroleum Submission on Options to Streamline EITE Administration of the Renewable Energy Regulations October 2017**

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Thank you for the opportunity to provide feedback on the *Options to streamline administration arrangements for the Renewable Energy (Electricity) Regulations 2001 regarding Emissions-Intensive Trade-Exposed Activities* Consultation Paper.

AIP provides this submission on behalf of its core members:

- BP Australia Pty Ltd
- Caltex Australia Limited
- Mobil Oil Australia Pty Ltd
- Viva Energy Australia Pty Ltd.

Australia currently has four refineries at Altona (Vic), Geelong (Vic), Lytton (Qld) and Kwinana (WA). Up until 2012, there were seven operating refineries in Australia with emissions of around 8 million tonnes per annum (mtpa) of which about 6 mtpa were direct emissions largely from generating heat and about 2 mtpa were Scope 2 emissions from electricity consumption. The conversion of the refineries to import terminals at Clyde and Kurnell in Sydney and Bulwer Island in Brisbane has commensurately seen the industry's overall emissions effectively halve.

The Australian oil refining sector has been under significant commercial pressures over a period of time caused largely by the global over-supply of petroleum products and these pressures led to the conversion of three Australian refineries to import terminals. These competitive pressures remain and any further costs pose a risk to the viability of the Australian refining sector.

The Australian oil refining industry is an energy intensive, high technology manufacturing industry converting crude oil to marketable petroleum products that competes head on with international refineries. Maintaining the competitiveness of Australia's refining sector by not imposing carbon costs on the industry not borne by international competitors is crucial to ensuring the industry's ongoing presence in Australia.

AIP notes that:

- There are significant imports of all petroleum products into the Australian market.
- Most imports into Australia are sourced from the Asia-Pacific region.
- There are no meaningful barriers to entry for imported petroleum products.
- Australian petroleum products are priced locally reflecting import parity price.
- Most refineries in the Asia-Pacific region will not face a cost of carbon in the foreseeable future.
- The profitability of Australian refineries would be substantially reduced and viability threatened if carbon policies were introduced that imposed costs that were not commensurate with international competitors as the local refining industry would have to absorb these costs.

In that context, the industry has been repeatedly recognized as an Emission Intensive Trade Exposed Industry (EITE) through multiple Government processes over a decade or more. This includes as part of the various forms of exemptions certificates provided as part of the Renewable Energy Target.

AIP supports the ongoing provision of EITE assistance at the current 100 percent offset rate. However, AIP has noted in previous submissions to Government that the administrative arrangements required to secure these permits have become unnecessarily burdensome as a legacy of the previous partial exemption certificate (PEC) process. AIP therefore welcomes the Australian Government's consideration of options to streamline the administration arrangements.

In its submission to the 2017 Climate Change Review, AIP proposed that "EITE companies could be exempted from the scheme simply by retailers not charging the RET costs to EITE approved businesses". Such an approach is consistent with other schemes such as the exemption provided to large energy users under the Victorian Energy Efficiency Target (VEET) scheme. Alternatively, AIP supports reforms whereby EITE businesses could provide their electricity use figures to their energy supplier for the purposes of determining the exemption allocation without the need for the current intensive application and allocation process.

While either of these approaches is preferable, AIP recognises that they may not be feasible options in this review as it may require a change to the legislation.

### **AIP OVERARCHING COMMENTS**

AIP supports reform to the administrative arrangements for RET exemptions that meets the key objective of reducing red tape through a simplification of the application process and a consequential streamlining of auditing requirements brought about by a simplified approach. AIP could not support a reform that replaces the existing complex methodology with another approach that requires development of a complex methodology for estimating immaterial electricity use.

AIP therefore contends that streamlining should allow for *de minimus* provisions whereby electricity use at the refinery outside the EITE boundaries that is deemed immaterial is ignored for the purposes of providing exemption certificates. The threshold should be set at use below 5 percent. AIP appreciates that while liable entities will need to provide a once-off substantiation of claims of such electricity use, this should not require an onerous or costly approach.

AIP also supports a move to simplifying the audit requirements, commensurate with the broader streamlined approach. AIP believes that limited assurance is appropriate.

AIP also seeks assurance that appropriate data confidentiality provisions are implemented and maintained, particularly where there may be requirements for production data. Most importantly, release of forecast production data can have market moving implications as it may signal a planned maintenance turnaround and is the most sensitive and commercially confidential.

AIP notes that each refinery is configured uniquely, including metering arrangements. AIP Member Companies will also provide submissions outlining the issues specific to their refinery, their reporting systems and their business imperatives. The Government will need to work with the individual businesses to determine an appropriate approach for immaterial electricity use that recognises these unique circumstances.

As AIP's preferred approach to simply exempt EITE businesses from the electricity charge passed through by retailers appears infeasible due to a likely requirement for legislative change, AIP provides the following responses to the questions on the options posed in the Consultation Paper.

## **AIP RESPONSE TO CONSULTATION PAPER QUESTIONS**

### **1. The relative merits of basing exemptions on activity-specific electricity use by an individual business, compared to retaining the existing production-based approach.**

AIP believes that a move to basing exemptions on activity-specific electricity use could significantly reduce the red-tape administrative burden on both industry and Government.

Beyond the intensive data gathering and application process requirements, the existing approach creates financial cashflow issues for refiners who have major maintenance activities every 3-5 years. This is due to the split between the financial and calendar year approach for the assessment and subsequent allocation of exemption certificates and the inability to either bank or borrow. Therefore, there is the unintended consequence whereby refiners may receive an over allocation in some years and a shortfall in others.

Furthermore, there are unnecessary complexity and cash flow implications, despite the 100 percent exemption, arising out of the fact that the RET costs are still charged in the cost of electricity and that the exemption is in the form of a rebate in subsequent years which is actually based on refinery throughput and not electricity consumption.

AIP therefore supports a simplified approach whereby liable entities receive an exemption based on their actual electricity use, rather than via a proxy production-based calculation. An approach based on actual electricity use is more consistent with the policy intent to provide a 100 percent offset for trade exposed businesses.

Appropriate transitional measures, reflective of the unique circumstances of individual businesses, will however be necessary.

### **2. The feasibility of issuing exemptions on the basis of electricity used in an EITE activity, including:**

- **whether specific metering is already in place, or could be cost-effectively put in place, to ascertain data on electricity usage in an EITE activity; and**
- **whether the EITE business would be in a position to shift to the new method for calculating exemption from the start of the 2018 application year.**

As noted, each Australian refinery is unique and the Government will be required to discuss these arrangements individually, including the capacity to shift to a new method from the start of the 2018 application year.

The EITE definition for Petroleum Refining<sup>1</sup> essentially includes the overwhelming majority of electricity consumed at the site. AIP's interpretation is that electricity use within the administration buildings would also be included in the assessment on the basis that the activities undertaken are predominantly essential process engineering, supply and related activities. This interpretation is based on the specific "inclusion" provision *"the direct emissions from, and electricity use of, machinery, equipment and processes which are integral to, and essential for, the physical and/or*

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<sup>1</sup> <http://webarchive.nla.gov.au/gov/20130905135431/http://www.climatechange.gov.au/reducing-carbon/jcp/activity-definitions/petroleum-refining>

*chemical transformation described in the activity definition, including for example.... control rooms, laboratories, maintenance workshops". Other administration activities within these buildings are largely immaterial.*

Specific "exclusions" in the EITE activity definition relate to electricity consumed in pumping products into and away from the site through distribution pipelines, as well as electricity consumed at the wharf. AIP's estimation is that this consumption represents less than 3 percent of total electricity consumption at the site.

AIP supports an approach consistent with financial accounting where amounts below 5% would be considered immaterial and therefore should be ignored for the purposes of providing exemptions. This de minimis approach would provide for exemptions based on a total reading of the site custody transfer meters, which are the best measure of power consumed at each site and are read by the electricity supplier. This pragmatic approach would avoid the need to:

- develop estimation methodologies for immaterial electricity use outside the EITE boundary,
- install costly sub-metring systems,
- implement time consuming internal administrative arrangements that would contradict the objective to reduce the red-tape burden.

### **3. Issues with the application timeframe, particularly the final date of EITE applications.**

Assuming the adoption of a pragmatic approach previously outlined, AIP does not believe there would be any significant issues with the application timeframe, but does note that each business will be unique and further consultation will be required with each business.

The petroleum industry operates on a calendar year basis and capital allocation processes have already been completed for 2018, which may be problematic if the pragmatic approach is not adopted.

### **4. Any particular issues such as multiple liable entity or change of liable entity application process.**

AIP does not foresee any issues in this regard for petroleum refineries.

### **5. The proposed initial reporting requirements.**

On the basis that the pragmatic approach is adopted whereby immaterial electricity use below 5 percent is required to be removed from the application, AIP does not foresee any issues with the proposed initial reporting requirements.

### **6. The proposed ongoing reporting requirements, in particular the audit requirements.**

AIP supports a move away from an annual audit to a requirement for an audit to be conducted every 5 years. AIP also supports a limited assurance approach. This approach better reflects the reduction in the complexity of the supporting application data arising out of the change in approach to reporting.

## **7. The proposal to require a forecast of production to be provided with the annual application of documents.**

AIP does not support a requirement to provide forecast production data on the basis that such data is not relevant or consistent with a streamlined approach, does not add sufficient value and would result in additional administrative burden for both industry and government.

AIP recognises that the reporting of annual actual production data may have merit in providing sufficient certainty that the EITE activity was undertaken and also as a means of verifying actual electricity consumption in relation to actual production of outputs.

Most importantly, AIP seeks assurance that appropriate data confidentiality provisions are in place.

## **8. The process for finalising an estimate of electricity consumption within an EITE activity.**

As previously outlined, AIP supports a pragmatic approach whereby consumption under 5 percent is considered immaterial. This approach would provide refineries with a simple 100 percent exemption based on a reading of custody metres.

AIP notes that the Government will need to engage with each refinery to verify metering arrangements and immaterial electricity consumption.

## **9. The proposed requirements for EITE businesses to get online accounts to access the REC Registry for issued exemption certificates.**

AIP supports this proposal on the basis that access to the registry is efficient and not onerous.

## **10/11. Transitional issues in moving from a production-based calculation and phasing in a new exemption calculation framework from 2018.**

AIP notes that circumstances will differ for each business which will need to be agreed with Government. However, so long as sufficient notice is provided and the approach adopted is pragmatic, AIP believes the dual approach outlined in the Consultation Paper is appropriate.

## **Conclusion**

AIP supports Government efforts to reduce the red tape burden on industry. AIP believes that a pragmatic approach that allows for the provision of exemption certificates for immaterial electricity of 5 percent or less outside the EITE boundaries would reduce the red tape burden on both industry and Government while better reflecting the policy objective of providing the stated 100 percent offset for EITE businesses. Commensurate reductions in the required level of audit and a move to 5-year audits is also supported.

AIP notes that each Australian refinery is unique and therefore bilateral discussions will be required with each refinery on a range of issues, including immaterial electricity use and transitional measures.