

**Reprint
as at 23 May 2013**



**Crown Minerals (Royalties for
Petroleum) Regulations 2013**
(SR 2013/126)

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 22nd day of April 2013

Present:
The Right Hon John Key presiding in Council

Pursuant to sections 105 and 105A of the Crown Minerals Act 1991, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Energy and Resources, makes the following regulations.

Contents

		Page
1	Title	3
2	Commencement	3

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

**Part 1
Preliminary provisions**

3	Application	3
4	Interpretation	4
5	Meaning of development costs	10
6	Meaning of exploration costs	11
7	Meaning of petroleum producing activities	12
8	Meaning of production costs	13
9	Meaning of related parties	14
10	GAAP accounting procedures to be used	15
11	Form of provision of documents if not prescribed	15

**Part 2
Royalties for petroleum**

	Subpart 1—When royalties payable and rates of royalties	
12	Permit holder must pay royalties	15
13	Royalty payable under exploration permit	16
14	Royalty payable under mining permit	16
15	Royalty payable on underground gas storage facility	17
	Subpart 2—How to calculate net sales revenues, gross sales revenues, accounting profits, and allowable APR deductions	
16	Net sales revenues	18
17	Gross sales revenues	19
18	Netbacks and net forwards	20
19	Point of valuation	21
20	Calculation of accounting profits	22
21	Allowable deductions for development costs	23
22	Allowable deductions for exploration costs	23
23	Allowable deductions for decommissioning costs	25
24	Allowable deductions for operating and capital overhead allowance	25
25	Allowable deductions for operating losses and capital costs carried forward	25
26	Allowable deductions for decommissioning costs carried back and recapture of capital expenditure deductions	26
27	Provisions relating to capital proceeds	27
28	Items not calculated according to arm's length contract	28
29	Carrying forward exploration costs	28
30	Deductions allowed only once	29
31	Arm's length value	29

32	Allowable APR deductions if transfer of participating interest	31
33	Calculations must be exclusive of GST	31

Part 3

Royalty returns, payments, and refunds

34	Reporting period	31
35	Royalty returns: categories of, and when and how required	31
36	Interim royalty return: contents	32
37	Annual royalty return: contents	32
38	Final royalty return: contents	34
39	Royalty returns where permit holder 2 or more permit participants	35
40	Auditor statement	36
41	Payment and refund of royalties	37
42	Accounts and records	38
43	Transitional provision	38

Regulations

1 Title

These regulations are the Crown Minerals (Royalties for Petroleum) Regulations 2013.

2 Commencement

These regulations come into force on 24 May 2013.

Part 1

Preliminary provisions

3 Application

- (1) These regulations apply in relation to—
 - (a) petroleum exploration permits granted after the commencement of these regulations; and
 - (b) petroleum mining permits granted after the commencement of these regulations other than those that fall within a category described in subclause (2)(b) or (c).
- (2) These regulations do not apply to—
 - (a) petroleum prospecting permits; or

- (b) petroleum permits to which clause 4 of Schedule 1 of the Act applies; or
 - (c) petroleum exploration or mining permits granted after the commencement of these regulations that are in exchange for a permit to which clause 4 of Schedule 1 of the Act applies.
- (3) Despite subclause (2), Part 3 of these regulations applies to petroleum permits to which subclause (2)(b) or (c) applies, except that terms used in that Part and defined in these regulations must be read—
- (a) as those terms are defined in the relevant minerals programme for the permit concerned; or
 - (b) if the terms are not defined in that minerals programme, as those terms are defined in the Crown Minerals (Petroleum) Regulations 2007 before the commencement of the Crown Minerals (Petroleum) Regulations Amendment Regulations 2013.

Regulation 3(3): amended, on 23 May 2013, by regulation 4 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

4 Interpretation

- (1) In these regulations, unless the context otherwise requires,—
- accounting profits** has the meaning given in regulation 20
- accounting profits royalty** or **APR** means a royalty in respect of accounting profits resulting from petroleum producing activities determined in accordance with regulations 20 to 33
- Act** means the Crown Minerals Act 1991
- ad valorem royalty** means a royalty in respect of net sales revenues resulting from petroleum producing activities determined in accordance with regulations 16 to 19
- allowable APR deductions** has the meaning given in regulation 20(2)
- arm's length**, in relation to contracts and transactions, means contracts and transactions that are entered into freely and independently by parties that are not related parties
- arm's length value**, in relation to costs, prices, and revenues, means those that a willing buyer and a willing seller, who are not related parties, would agree are fair in the circumstances

auditor means—

- (a) a chartered accountant (within the meaning of section 19 of the New Zealand Institute of Chartered Accountants Act 1996); or
- (b) a member, a fellow, or an associate of an association of accountants constituted outside New Zealand that is for the time being approved for the purposes of section 199 of the Companies Act 1993 by the Registrar of Companies by notice in the *Gazette*

calendar year means a period of 12 months ending with 31 December

capital costs means development costs, exploration costs, feasibility study costs, and permit maintenance and consent costs

capital proceeds has the meaning given in regulation 27

condensate means a mixture of hydrocarbons that exists—

- (a) in the gaseous phase at original reservoir temperature; and
- (b) in the liquid phase at surface pressure and temperature

decommissioning costs means the post-production costs incurred by a permit holder in decommissioning and restoring sites and dismantling or demolishing equipment or structures used in petroleum producing activities in respect of the permit

decommissioning costs carried back means the costs described in regulation 26

development costs has the meaning given in regulation 5

exploration costs has the meaning given in regulation 6

feasibility study costs means costs incurred by a permit holder in determining the technical feasibility and commercial viability of an exploration permit or a mining permit, including the following:

- (a) market feasibility studies;
- (b) surveys of transportation or infrastructure requirements;
- (c) market negotiations that relate to initial petroleum sales contracts

finance lease—

- (a) means a lease that transfers substantially all the risks and rewards incidental to ownership of an asset to the lessee, whether or not title has been transferred; and
- (b) includes a lease where the leased assets are of such a specialised nature that only the lessee can use them without major modifications; and
- (c) includes a contract for the hire of an asset that contains a provision transferring title to the asset on the fulfilment of agreed conditions

fixed asset—

- (a) means land, buildings, machinery, and equipment; and
- (b) includes land, buildings, machinery, and equipment owned or utilised by a permit holder by virtue of a finance lease that is expected to be used during more than 1 reporting period and is expected to benefit future operations

form prescribed by the chief executive includes, where applicable, also in the manner prescribed by the chief executive

GAAP means generally accepted accounting practice as that term is defined in section 3 of the Financial Reporting Act 1993

gross sales revenues has the meaning given in regulation 17

GST means goods and services tax

head office costs means costs incurred by a permit holder outside of the mining permit operations that, although they in some manner may benefit the mining permit, do not qualify as indirect costs and are, therefore, non-allowable costs

indirect costs means the following costs incurred by a permit holder:

- (a) actual general and administrative costs (other than capital costs, non-allowable costs, production costs, or decommissioning costs) that are directly related to petroleum producing activities and carried out on or because of the mining permit:
- (b) insurance costs:

- (c) marketing costs incurred up to the point of sale that are directly related to petroleum produced from the mining permit;
- (d) costs normally allocable by the permit holder to its permit participants in a conventional joint venture operating agreement, including, but not limited to, communications, travel, audit, legal, or insurance costs and office expenses

insurance costs—

- (a) means costs incurred by a permit holder, in keeping with normal business practices, that provide reasonable and prudent protection against risk of loss of assets, equipment, personnel, or other things related to an exploration permit or a mining permit, and result from the payment of premiums to an insurance company; and
- (b) include reasonable and prudent co-insurance and deductible amounts

land access costs means—

- (a) payments made by a permit holder to landowners, land occupiers, or both, to gain access to their land to conduct mining; or
- (b) costs incurred by a permit holder in purchasing land to gain access to land to conduct mining, in which case the amount that can be claimed is—
 - (i) the actual land purchase price or twice the rating valuation of the land at the commencement date of the mining permit, whichever is the lesser; or
 - (ii) if the land is purchased after the commencement date of the mining permit, the actual purchase price or twice the rating valuation of the land at the date of purchase, whichever is the lesser

Minister means the Minister of Energy and Resources

natural gas means—

- (a) all gaseous hydrocarbons produced from wells, including wet gas and residual gas remaining after the extraction of condensate from wet gas; and
- (b) all liquid hydrocarbons other than condensate extracted from wet gas and sold as natural gas liquids, for example, liquefied petroleum gas

net allowable APR deductions means allowable APR deductions less capital proceeds

net forward has the meaning given in regulation 18

net sales revenues means the revenues calculated in accordance with regulation 16

netback has the meaning given in regulation 18

non-allowable costs means costs in the following categories:

- (a) depreciation and amortisation:
- (b) royalties payable to the Crown or any other party from the proceeds of production:
- (c) head office costs:
- (d) interest costs or cost of equity:
- (e) the interest component of a finance lease:
- (f) income tax and GST:
- (g) costs incurred in purchasing title to an existing exploration permit or mining permit or an ownership interest in such a permit:
- (h) cash bonus bid payments:
- (i) foreign exchange gains and losses:
- (j) the capital cost of transportation, storage, and processing of assets owned by the permit holder and used between the point of valuation and the point of sale:
- (k) donations:
- (l) directors' fees:
- (m) any other costs that do not fall into any one of the categories of allowable APR deductions (as specified in regulation 20(2)):
- (n) other costs not directly associated with the permit concerned:
- (o) costs not incurred by the permit holder

offshore means anywhere that is the seaward side of the mean high-water mark

onshore means anywhere that is the landward side of the mean high-water mark

operating and capital overhead allowance has the meaning given in regulation 24

operating loss has the meaning given in regulation 25(1)

operating losses and capital costs carried forward means the costs described in regulation 25

permit maintenance and consent costs—

(a) means—

- (i) payments made to the Crown and other governmental authorities by a permit holder to maintain an exploration permit, a mining permit, or both, including payments made to maintain associated resource consents, including costs in relation to the preparation of any environmental impact statement required under the Resource Management Act 1991; and
- (ii) payments that are land access costs; but

(b) does not mean—

- (i) cash bonus bid payments; or
- (ii) costs incurred in purchasing title to an existing exploration permit or mining permit or an ownership interest in such a permit; or
- (iii) costs incurred in buying back into an agreement commonly known as a sole risk venture; or
- (iv) costs incurred by a permit participant to increase equity in the permit

petroleum producing activities has the meaning given in regulation 7

point of sale means the point at which the sale of petroleum by a permit holder is deemed to have occurred, calculated in accordance with GAAP

point of valuation has the meaning given in regulation 19

production costs has the meaning given in regulation 8

quarter-year means the 3-month period ending on the last day of March, June, September, or December in each calendar year

related parties has the meaning given in regulation 9

reporting period has the meaning given in regulation 34

royalty return means an interim royalty return, an annual royalty return, and a final royalty return

tangible asset includes fixed assets.

- (2) A term that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

- (3) A term that is not defined in the Act or these regulations must be interpreted in accordance with—
- (a) the generally accepted usage of that term in the international oil and gas industry; and
 - (b) if applicable, any specific reference in the interpretations set out in Regulation S-X 210.4-10 of the United States Securities and Exchange Commission titled “Financial Accounting and Reporting for Oil and Gas Producing Activities pursuant to the Federal securities laws and the Energy Policy and Conservation Act of 1975”.

Regulation 4(1) **fixed asset** paragraph (b): amended, on 23 May 2013, by regulation 5(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 4(1) **Minister**: inserted, on 23 May 2013, by regulation 5(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 4(1) **net allowable APR deductions**: inserted, on 23 May 2013, by regulation 5(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 4(1) **operating loss**: inserted, on 23 May 2013, by regulation 5(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

5 Meaning of development costs

- (1) **Development costs** means costs incurred by the permit holder up to the point of valuation in obtaining access to petroleum and in providing facilities for extracting, treating, gathering, and storing the petroleum.
- (2) Without limiting subclause (1), **development costs** include costs incurred in—
- (a) gaining access to land and preparing well location sites for drilling, including surveying well locations for the purpose of determining specific development drilling sites, clearing ground, road building, and relocating public roads, gas lines, and power lines, to the extent necessary in developing the petroleum resource:
 - (b) drilling and equipping development wells, development-type stratigraphic test wells, and service wells, including the costs of platforms and of well equipment such as casing, tubing, pumping equipment, and well-head equipment:

- (c) designing, acquiring, constructing, installing, and commissioning production facilities such as flow lines, separators, treaters, heaters, manifolds, measuring devices, production storage tanks, natural gas cycling and processing plants, and central utility and waste disposal systems:
 - (d) providing improved recovery systems:
 - (e) acquiring, through purchase or capitalisable lease, equipment otherwise used in production:
 - (f) acquiring, constructing, and installing support facilities to service the development site and the personnel directly involved in development and production of the petroleum resource.
- (3) **Development costs** do not include indirect costs, exploration costs, decommissioning costs, production costs, or non-allowable costs.

6 Meaning of exploration costs

- (1) **Exploration costs** means costs incurred by the permit holder in identifying areas that may warrant examination and in examining and appraising specific areas considered to have prospects of containing petroleum reserves.
- (2) Without limiting subclause (1), **exploration costs** include—
 - (a) costs to purchase the results of a speculative study or survey that was carried out before the bidding round:
 - (b) drilling exploratory wells or exploratory stratigraphic test wells:
 - (c) costs of other exploration activities, including, but not limited to,—
 - (i) capital and operating costs of support vessels charged through day rates or other allocation mechanisms:
 - (ii) costs of topographical, geological, or geophysical studies, rights of access to properties to conduct those studies, and salaries and other expenses of the individuals conducting those studies (which costs may be incurred directly by the permit holder, on behalf of the permit holder pursuant to a contract, or in the form of a payment to

- a third party to purchase the results of the studies carried out by the third party):
- (iii) costs of drilling and equipping exploratory and appraisal wells:
 - (iv) costs of seismic work undertaken outside the exploration permit area to facilitate bridging to pre-existing survey tie lines:
 - (v) costs associated with testing operations of any discovery made.
- (3) **Exploration costs** do not include development costs, production costs, indirect costs, decommissioning costs, or non-allowable costs.
- (4) For the purposes of subclause (2)(c)(v), a **discovery** is established in the circumstances where there are significant moveable hydrocarbons present in the drilling column resulting from exploration, appraisal well drilling, or well-stimulation, and the moveable hydrocarbons are related to a subsurface deposit that can be established by testing, sampling, or logging.

7 Meaning of petroleum producing activities

- (1) **Petroleum producing activities** means activities in relation to—
- (a) the search for petroleum in its natural state and original location; and
 - (b) the construction, drilling, and production activities necessary to retrieve petroleum from its original location, including those relating to the lifting to the surface, gathering, treating, field processing (as in the case of processing gas to extract liquid hydrocarbons), and field storage of the petroleum; and
 - (c) the acquisition, construction, installation, and maintenance of field gathering and storage systems, including those related to the lifting to the surface, gathering, treating, field processing (as in the case of processing gas to extract liquid hydrocarbons), and field storage of the petroleum.
- (2) For the purposes of these regulations, a **petroleum producing activity** must be treated as ceasing at the point of valuation.

8 Meaning of production costs

(1) Production costs—

- (a) means costs incurred by the permit holder up to the point of valuation to operate and maintain wells and related equipment and facilities, including capital and applicable operating costs of support facilities, charged to petroleum producing activities in the form of a day rate or similar allocation mechanism; and
- (b) includes costs incurred up to the point of valuation in operating and maintaining those wells and related equipment and facilities, including, but not limited to,—
 - (i) labour costs in operating the wells and related equipment and facilities, including remuneration elements such as wages and salaries, and reasonable fringe benefits as provided for in employment contracts, such as housing, education, health care, and recreation:
 - (ii) costs of repairs and maintenance of equipment and facilities used in production:
 - (iii) costs of materials, supplies used, and purchased fuel consumed in operating the wells and related equipment and facilities:
 - (iv) site maintenance costs during production:
 - (v) costs for leasing or hiring of fixed assets.

(2) Production costs do not include exploration costs, development costs, indirect costs, decommissioning costs, or non-allowable costs.

(3) If support equipment or facilities serve petroleum producing activities on 2 or more mining permits or existing privileges, or serve transportation, refining, and marketing activities after the point of valuation, the chief executive and the permit holder must, before the filing of the first annual royalty return, agree on the allocation of all common production costs between the permits or between different facets of the permit holder's business, but the total of those allocated costs must not exceed the total cost to be allocated.

(4) If a third party utilises a permit holder's production facilities or any other fixed assets of the permit holder and the permit

holder generates revenue as a result, that revenue must be deducted from any claims for production costs up to the total deduction claimed for those production costs.

Regulation 8(3): amended, on 23 May 2013, by regulation 6 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

9 Meaning of related parties

- (1) Entities are related parties of a permit holder if the entities directly or through 1 or more intermediaries exercise control over the permit holder or are controlled by, or are under common control with, the permit holder. Such entities may include, but are not limited to, holding companies, subsidiaries and associates and fellow subsidiaries and associates, joint ventures involving entities, and other contractual arrangements involving entities.
- (2) Individuals and their close family members or controlled trusts are related parties of a permit holder if they own, directly or indirectly, an interest in the voting power of the permit holder that gives them significant influence over the permit holder.
- (3) Key management personnel are related parties of a permit holder if they have authority and responsibility for planning, directing, and controlling the activities of the permit holder. Such key management personnel may include, but are not limited to, directors and officers of companies and close members of the families of those individuals.
- (4) Entities are related parties of a permit holder if a substantial interest in their voting power is owned, directly or indirectly, by any person described in subclause (2) or (3) who is able to exercise significant influence over the entities. Such entities may include, but are not limited to, entities owned by directors or major shareholders of the permit holder and entities that have a member of key management in common with the permit holder.
- (5) To the extent that these regulations apply to 2 or more permit participants (in their capacity as a permit participant rather than a permit holder), this regulation applies for that purpose as if each reference to a permit holder were a reference to a permit participant.

10 GAAP accounting procedures to be used

- (1) In calculating royalties, including each element of the calculation, for the purposes of these regulations, a permit holder must use accounting procedures that are in accordance with GAAP.
- (2) Subclause (1) applies unless a provision of these regulations provides otherwise.

11 Form of provision of documents if not prescribed

- (1) This regulation applies if any information, document, or other thing—
 - (a) is required to be provided in a form prescribed by the chief executive; and
 - (b) no such form has been prescribed.
- (2) The information, document, or other thing must nevertheless be provided in a form and in a manner acceptable to the chief executive.

Part 2

Royalties for petroleum

**Subpart 1—When royalties payable and
rates of royalties**

12 Permit holder must pay royalties

- (1) A permit holder must calculate and pay to the Crown royalties (in accordance with the relevant provisions of regulations 13 to 15) in respect of all petroleum obtained under a permit that—
 - (a) is sold; or
 - (b) is used in the production process as fuel; or
 - (c) is otherwise exchanged or removed under the permit without sale; or
 - (d) remains unsold on the surrender, expiry, or revocation of the permit; or
 - (e) is flared gas, except gas that is flared for safety reasons or as part of a testing programme approved by the Minister as part of a petroleum exploration or mining permit work programme.

- (2) Despite subclause (1), no royalty is payable by a permit holder for any petroleum obtained under a permit that,—
- (a) in the opinion of the Minister, has been unavoidably lost (including gas that is flared for safety reasons or as part of a testing programme approved by the Minister as part of a petroleum exploration or mining permit work programme); or
 - (b) has been mined or otherwise recovered from its natural condition, but—
 - (i) has been returned to a natural reservoir (for example, gas that is re-injected into the well from which it was recovered); or
 - (ii) *[Revoked]*
 - (iii) if in a gaseous state, has been injected into an underground gas storage facility that lies within the same permit area (until such time as petroleum is extracted and a royalty becomes payable under subclause (1)).

(3) *[Revoked]*

Regulation 12(2)(b)(ii): revoked, on 23 May 2013, by regulation 7(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 12(2)(b)(iii): replaced, on 23 May 2013, by regulation 7(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 12(3): revoked, on 23 May 2013, by regulation 7(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

13 Royalty payable under exploration permit

- (1) The holder of an exploration permit must pay an *ad valorem* royalty of 5% of the net sales revenues of the petroleum obtained under the permit.
- (2) The royalty is payable for each reporting period.

14 Royalty payable under mining permit

- (1) The holder of a mining permit must pay the higher of—
 - (a) an *ad valorem* royalty of 5% of the net sales revenues of the petroleum obtained under the permit; and

- (b) an accounting profits royalty of 20% of the accounting profits, or provisional accounting profits, as the case may be, of the petroleum obtained under the permit.
- (2) Despite subclause (1), permit holders with a net sales revenue of less than the prescribed threshold in a reporting period must pay an *ad valorem* royalty of 5% of the net sales revenues of the petroleum obtained under the permit.
- (3) A royalty payable under this regulation is payable for each reporting period.
- (4) The **prescribed threshold** under subclause (2) is—
 - (a) the amount determined by the Minister by notice in the *Gazette*; or
 - (b) in the absence of an amount determined under paragraph (a), \$1 million.
- (5) A prescribed threshold determined in accordance with subclause (4)(a) takes effect from the beginning of the calendar year following the year in which the amount is gazetted.

15 Royalty payable on underground gas storage facility

- (1) The holder of a mining permit that includes an underground gas storage facility must pay a one-off *ad valorem* royalty of 5% of the estimated value of the original gas in the underground gas storage facility if any of the gas that is injected into the facility is mined from land outside the area of the permit.
- (2) The royalty must be paid—
 - (a) at the time the permit is granted, if the permit includes the facility at that time; or
 - (b) at the time the permit is amended, if the permit is amended after its granting to include an underground gas storage facility.
- (3) The royalty must be paid as a lump sum, with the estimated value of the original gas based on the value at the time that the royalty must be paid.
- (4) The holder of a mining permit that includes an underground gas storage facility must also pay, for each reporting period, an *ad valorem* royalty of 5% of the sales value of any liquid petroleum extracted from the underground gas storage facility.

- (5) In this regulation, **original gas** means the economically recoverable gas in an underground gas storage facility before injection of gas from another permit area. The amount and value of the original gas must be determined by an independent expert who has specialist knowledge in reserves estimation and who is acceptable to the Minister.

Regulation 15(1): amended, on 23 May 2013, by regulation 8 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Subpart 2—How to calculate net sales
revenues, gross sales revenues, accounting
profits, and allowable APR deductions

16 Net sales revenues

- (1) Net sales revenues must be calculated—
- (a) so that all revenues are to be included as realised; and
 - (b) in accordance with—
 - (i) the equation in subclause (2), if the point of sale is downstream of the point of valuation;
 - (ii) the equation in subclause (3), if the point of sale is upstream of the point of valuation.
- (2) The equation for the purposes of subclause (1)(b)(i) is—

$$r = g + p - n$$

where—

- r is the net sales revenues
- g is the gross sales revenues
- p is the value of petroleum not sold but on which royalty is payable
- n is the netbacks.

- (3) The equation for the purposes of subclause (1)(b)(ii) is—

$$r = g + p + n$$

where—

- r is the net sales revenues
- g is the gross sales revenues
- p is the value of petroleum not sold but on which royalty is payable
- n is the net forwards.

17 Gross sales revenues

- (1) **Gross sales revenues** means the total sales of petroleum from the permit during the period for which a royalty return must be provided.
- (2) In the case of a take or pay contract or a forward sales contract,—
 - (a) the sale of petroleum must be included in the gross sales revenues at the date of delivery; and
 - (b) the sales price is the price received under the contract.
- (3) If any of the sales prices for the petroleum have been denominated in a foreign currency, the sales price to be used for calculating gross sales revenues must be translated into New Zealand dollars at the sell rate obtained. If sale proceeds are not immediately translated into New Zealand dollars, but are retained in a foreign currency, the exchange rate to be used is the mid-point between the buy and sell rates for the foreign currency on the date of sale, set by a major New Zealand registered bank.
- (4) *[Revoked]*
- (5) If any gross sales revenues amount has not been determined on an arm's length basis (for example, pursuant to a contract between related parties), the permit holder must value the petroleum using an arm's length value, as approved by the Minister in accordance with regulation 31.
- (6) The value of petroleum not sold, but for which royalty is payable, must be determined using an arm's length value, as determined by the Minister in accordance with regulation 31.
- (7) The calculation of gross sales revenues must exclude—
 - (a) foreign currency losses and gains, and losses, gains, and costs associated with futures contracts used for hedging or other purposes; and
 - (b) payments received in respect of a take or pay contract that are not recompensed with delivery of petroleum at a later date before the expiry of the permit.
- (8) In this regulation,—

date of delivery means the actual date petroleum is physically delivered to a purchaser or a purchaser's agent (as in free on board sales)

forward sales contract—

- (a) means a contract to sell production from a permit at a future date; and
- (b) includes a contract without a specified price or fixed date of delivery (for example, a spot deferred contract)

futures contract means a transaction undertaken for hedging purposes that involves the purchase and sale of a contract to supply petroleum on a recognised futures trading exchange

take or pay contract means a contract pursuant to which the purchaser agrees to take or pay for a minimum quantity of petroleum per year whether or not the purchaser takes delivery of the petroleum.

- (9) For the purposes of subclause (3), **date of sale** means the date on which the sale is deemed to have occurred in accordance with GAAP.

Regulation 17(2)(a): amended, on 23 May 2013, by regulation 9(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 17(4): revoked, on 23 May 2013, by regulation 9(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 17(5): amended, on 23 May 2013, by regulation 9(3) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 17(8) **date of delivery**: inserted, on 23 May 2013, by regulation 9(4) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

18 Netbacks and net forwards

- (1) A **netback** or a **net forward** is that portion of the sale price of petroleum that represents the cost (if any) to the permit holder of transporting, storing, and processing the petroleum between the point of valuation and the point of sale.
- (2) For the purposes of determining a netback or net forward, the permit holder may deduct from gross sales revenues the costs of operating dedicated transportation, storage, loading, and processing facilities (including insurance and depreciation of fixed assets involved) between the point of valuation and the point of sale.

- (3) If any of the costs of transporting, storing, and processing are not considered to have been charged on an arm's length basis (for example, if they have been determined pursuant to a contract between related parties), the permit holder must calculate the netbacks or net forwards using an arm's length value, as approved by the Minister in accordance with regulation 31.
- (4) A netback amount must not exceed the gross sales revenues amount.
- (5) The capital costs of any owned transportation, storage, or processing assets are non-allowable costs and must not be used in determining a netback or net forward.

Regulation 18(2): amended, on 23 May 2013, by regulation 10(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 18(3): amended, on 23 May 2013, by regulation 10(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

19 Point of valuation

- (1) The **point of valuation** is the point at which net sales revenues for each product stream are calculated.
- (2) The Minister must determine the point of valuation,—
 - (a) in the case of a mining permit, at the time of granting the permit;
 - (b) in the case of an exploration permit, by written notice to the permit holder within 30 working days after the date on which the permit is granted;
 - (c) in any case, at any other time notified to the permit holder, after the time when production of petroleum under the permit commences.
- (3) The Minister must endeavour to ensure that—
 - (a) the point of valuation is generally the same as, or very close to, the point of sale for each product stream to an arm's length purchaser;
 - (b) netbacks or net forwards will not generally be allowed or will not be significant, although the Minister may set separate points of valuation for various product streams.
- (4) The Minister must consult the permit holder before making a determination.

- (5) If a significant change to the production facilities has resulted in a point of valuation that is not the same as or very close to the point of sale for the product stream, the Minister may, after consultation with the permit holder, amend the point of valuation for calculating net sales revenues so as to set the point of valuation at or close to the point of sale for the product stream.

20 Calculation of accounting profits

- (1) For each reporting period, **accounting profits** (the excess of net sales revenues over the net allowable APR deductions) must be calculated in accordance with the following formula:

$$p = r - (a - c)$$

where—

p is the accounting profits

r is the net sales revenues (calculated in accordance with regulation 16)

a is the allowable APR deductions

c is the capital proceeds.

- (2) **Allowable APR deductions** are—

- (a) production costs:
- (b) capital costs:
- (c) indirect costs:
- (d) decommissioning costs:
- (e) the operating and capital overhead allowance:
- (f) operating losses and capital costs carried forward:
- (g) decommissioning costs carried back.

- (3) For the purposes of calculating the allowable APR deductions, all costs are to be included as incurred.

- (3A) If capital proceeds exceed allowable APR deductions, the excess must be carried forward as a gain on disposal and applied against allowable APR deductions in subsequent reporting periods until it is fully written off.

- (4) Allowable APR deductions claimed must be reduced by any revenue generated by the permit holder from tangible assets for which a deduction has already been claimed up to the total deduction claimed for that tangible asset.

- (5) Royalties due in a reporting period are **provisional accounting profits royalties**, pending the calculation of the total decommissioning costs for the duration of the permit concerned. Once decommissioning costs carried back are taken into account (in accordance with regulation 26) the final accounting profits royalty must be determined.
- (6) *[Revoked]*
- (7) To avoid doubt,—
- (a) only those costs specified in subclause (2) as allowable APR deductions may be deducted when calculating accounting profits for accounting profits royalty purposes; and
 - (b) in accordance with regulation 30, no deduction may be made more than once in respect of any amount expended.

Regulation 20(1): amended, on 23 May 2013, by regulation 11(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 20(3A): inserted, on 23 May 2013, by regulation 11(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 20(5): replaced, on 23 May 2013, by regulation 11(3) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 20(6): revoked, on 23 May 2013, by regulation 11(4) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

21 Allowable deductions for development costs

Development costs that are allowable APR deductions are those incurred by the permit holder to enable mining activities in respect of the mining permit up to the point of valuation, both before and after the date on which the mining permit is granted until the date on which the mining permit is relinquished.

22 Allowable deductions for exploration costs

- (1) Exploration costs that are allowable APR deductions are those incurred by the permit holder (but not previously claimed against another mining permit)—

- (a) in respect only of the area defined in the mining permit, after the date on which the mining permit was granted; and
 - (b) in respect of any area defined in the exploration permit from which the mining permit was derived, after the date on which the exploration permit was granted and before the mining permit was granted (including exploration costs within any part of the exploration permit area, even if the area was relinquished in accordance with section 35C of the Act); and
 - (c) in respect of any area added by way of an extension to the mining permit, before the inclusion of that area in the mining permit; and
 - (d) to purchase the results of a speculative study or survey that was carried out before the bidding round by a previous prospecting permit holder immediately before the award to the permit holder of an exploration permit and that includes the area defined in the mining permit; and
 - (e) for any mining permit arising from a discovery made between 30 June 2004 and 30 December 2009, the exploration costs incurred by the permit holder or a party to the permit anywhere in New Zealand between those dates carried forward with annual interest at a rate equal to the 10-year government bond rate plus 1 percentage point.
- (2) The value of any petroleum produced as a result of exploration activities and the value of any government incentive payment related to exploration activities must be deducted from exploration costs when an amount in respect of subclause (1)(a) to (e) is calculated.
- (3) For the purposes of subclause (1)(e), the **government bond rate** means the rate as notified by the Reserve Bank of New Zealand and the **10-year government bond rate** to be used for the purposes of calculating the exploration costs to be carried forward, for a reporting period, is the average monthly bond rate for the calendar year in which the expenditure was incurred.

23 Allowable deductions for decommissioning costs

Decommissioning costs are an allowable APR deduction only once the actual decommissioning costs have been incurred.

24 Allowable deductions for operating and capital overhead allowance

- (1) The **operating and capital overhead allowance** is an allowance to reflect head office costs attributable to a mining permit.
- (2) For an onshore mining permit for any period for which a royalty return must be provided, the allowance is 2.5% of the total production costs, capital costs, and indirect costs claimed in that period.
- (3) For an offshore mining permit or part offshore and part onshore mining permit for any period for which a royalty return must be provided, the allowance is 1.5% of the total production costs, capital costs, and indirect costs claimed in that period.
- (4) The allowance may not be claimed in respect of decommissioning costs.

25 Allowable deductions for operating losses and capital costs carried forward

- (1) An **operating loss** results if the operating and capital expenses for a reporting period exceed the net sales revenues for the period.
- (2) The operating loss may be accumulated as **operating losses and capital costs carried forward**.
- (3) Operating losses and capital costs carried forward may be deducted in subsequent periods for which royalty returns must be provided where the net sales revenues exceed operating and capital expenses until fully utilised or until the surrender or expiry of the permit, whichever comes first.
- (4) For the purposes of this regulation, **operating and capital expenses** means the sum of production costs, capital costs, indirect costs, decommissioning costs, and the operating and capital overhead allowance.

26 Allowable deductions for decommissioning costs carried back and recapture of capital expenditure deductions

- (1) If a permit holder has previously been unable to claim decommissioning costs as an allowable APR deduction (because they have been incurred after production under the permit has significantly declined or ended), the actual decommissioning costs may be included in the permit holder's final royalty return for the purpose of calculating the decommissioning costs carried back.
- (2) Decommissioning costs carried back may be claimed as an allowable APR deduction in respect of any period or periods for which provisional accounting profit royalties were paid.
- (3) For the purposes of the final royalty return, after the deduction of any ongoing monitoring costs, capital proceeds must be subtracted from the decommissioning costs carried back.
- (4) The subsequent balance must be divided over each reporting period of the life of the permit and allocated equally over each of those periods.
- (5) Final accounting profits must be calculated for each reporting period with the allowable APR deductions for each reporting period adjusted to incorporate capital proceeds.
- (6) If there is an operating loss in any of the reporting periods, the operating loss may be carried forward in accordance with regulation 25.
- (7) In subclause (3), **ongoing monitoring costs** means the costs related to any ongoing monitoring required from the permit holder under the Resource Management Act 1991, the amount of which the chief executive has agreed with the permit holder. In agreeing an amount, any bond or monetary deposit held by a local authority for that purpose may be taken into account.
- (8) *[Revoked]*

Regulation 26(3): replaced, on 23 May 2013, by regulation 12 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 26(4): replaced, on 23 May 2013, by regulation 12 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 26(5): replaced, on 23 May 2013, by regulation 12 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 26(6): replaced, on 23 May 2013, by regulation 12 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 26(7): replaced, on 23 May 2013, by regulation 12 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 26(8): revoked, on 23 May 2013, by regulation 12 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

27 Provisions relating to capital proceeds

- (1) **Capital proceeds** are proceeds resulting—
 - (a) from the hire, lease, or rent of tangible assets;
 - (b) from the sale of tangible assets, the cost of which has previously been claimed as an allowable APR;
 - (c) from insurance reimbursement resulting from loss of or damage to tangible assets (to the limit of the original cost of the tangible assets);
 - (d) from proceeds of sale calculated in accordance with subclause (2) in respect of tangible assets to which that subclause applies.
- (2) If tangible assets, either in whole or in part, the cost of which has previously been claimed as an allowable APR, have been transferred to or in respect of another exploration or mining permit without being sold, the sale of the assets must be treated as having occurred, with the proceeds of sale being the arm's length value of the whole or part of the assets, as the case may be.
- (3) If the total gain from capital proceeds exceeds allowable APR deductions, the excess must be carried forward and applied against allowable APR deductions in subsequent reporting periods until it is fully written off.
- (4) For the purposes of calculating the capital proceeds from the sale of land, the original value of the land for royalty purposes is the lesser of—
 - (a) the actual land purchase price of that land; and
 - (b) twice the rating valuation of that land at the commencement date of the permit or at the date on which the land was purchased, whichever occurred later.

Regulation 27(1): replaced, on 23 May 2013, by regulation 13(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 27(3): replaced, on 23 May 2013, by regulation 13(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 27(4): inserted, on 23 May 2013, by regulation 13(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

28 Items not calculated according to arm's length contract

If any of the production costs, indirect costs, decommissioning costs, exploration costs, development costs, permit maintenance and consent costs, feasibility study costs, or capital proceeds have not been determined pursuant to an arm's length contract, the permit holder must calculate the relevant costs using an arm's length value as approved by the Minister in accordance with regulation 31.

29 Carrying forward exploration costs

- (1) If a permit holder wishes to claim a deduction for exploration costs referred to in regulation 22, the initial amount of those costs must be agreed with the chief executive before—
 - (a) the filing of the first annual royalty return where the accounting profits royalty is required to be calculated; or
 - (b) in the case of exploration costs relating to an extension to a mining permit, the filing of the first annual royalty return after the extension is approved.
- (2) If the permit holder is a joint venture, a partnership, or otherwise made up of 2 or more permit participants, and any of the parties wishes to claim a deduction for exploration costs referred to in regulation 22, the permit participant concerned must identify the permits under which the exploration costs were incurred.
- (3) Exploration costs that are incurred within an exploration permit area must be attributed to a single mining permit.
- (4) However, the Minister may accept a request from a permit holder to allocate exploration costs between a first mining per-

mit and any additional mining permits envisaged by the permit holder, if—

- (a) the exploration costs are incurred within the exploration permit area before the commencement of the first mining permit; and
 - (b) the other mining permits are based on information gained during the term of the exploration permit; and
 - (c) the request is made at the time of the granting of the first mining permit.
- (5) Permit holders must keep detailed records of all exploration costs for each permit and for each reporting period in order to make a claim for those costs to the chief executive.

Regulation 29(1)(a): amended, on 23 May 2013, by regulation 14 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 29(1)(b): amended, on 23 May 2013, by regulation 14 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

30 Deductions allowed only once

Even if an amount expended by a permit holder falls under more than 1 category of allowable APR deduction under these regulations, no deduction may be made more than once in respect of the amount expended.

31 Arm's length value

- (1) For the purposes of determining royalty payments under these regulations, the Minister may determine the arm's length value of—
- (a) costs, prices, and revenues that are not the result of arm's length transactions between parties, if the permit holder and the Minister are unable to agree on their value within a period fixed by the Minister;
 - (b) fixed assets that are not acquired or disposed of as a result of arm's length transactions, if the permit holder and the Minister are unable to agree on their value within a period fixed by the Minister.
- (2) In determining an arm's length value, the Minister may have regard to anything he or she considers relevant, including, but not limited to,—

- (a) the technical specification of the petroleum produced:
 - (b) the point of sale and the point of valuation for the permit:
 - (c) the nature of the market for the petroleum being sold or transferred or the asset or service being purchased or acquired:
 - (d) the average price of any petroleum sold at arm's length by the permit holder during the reporting period concerned:
 - (e) the terms of relevant contracts or agreements and the quantities specified in those contracts or agreements:
 - (f) the provisions of relevant contracts or agreements relating to variation or renegotiation of prices:
 - (g) the state of the market for the petroleum product concerned at the time the prices in the relevant contracts or agreements were set:
 - (h) prices paid to producers of similar petroleum products elsewhere in arm's length transactions:
 - (i) costs paid for similar assets or services elsewhere in arm's length transactions:
 - (j) prices recommended by international associations of governments of countries producing the petroleum product concerned:
 - (k) any provisions in joint venture operating agreements that relate to transactions between related parties:
 - (l) declarations made to the Commissioner of Inland Revenue for the purposes of fringe benefit tax.
- (3) In determining an appropriate value, the Minister may also take into consideration that petroleum used as a process fuel, or otherwise exchanged or removed from a permit without sale, may have a lesser value than a similar product being marketed.
- (4) In determining arm's length value, the Minister may seek advice from experts.
- (5) The Minister's determination is final.

Regulation 31(2)(d): amended, on 23 May 2013, by regulation 15(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 31(2)(l): amended, on 23 May 2013, by regulation 15(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

32 Allowable APR deductions if transfer of participating interest

- (1) If some or all of a participating interest in a permit has been transferred, any pro rata balance of operating losses and capital costs carried forward that have not been claimed as allowable APR deductions must be carried forward and are available to the new holder of the participating interest to the same extent as if no transaction had taken place.
- (2) A permit holder or permit participant who has transferred all or part of a participating interest cannot claim any previously claimed allowable APR deductions against any other permit.
- (3) A new permit holder or new permit participant cannot claim as allowable APR deductions those costs already deducted by the previous permit holder or permit participant.

33 Calculations must be exclusive of GST

All values calculated under this subpart must be exclusive of GST.

Part 3

Royalty returns, payments, and refunds

34 Reporting period

- (1) The reporting period for the purposes of these regulations is a calendar year.
- (2) If a permit commences after 1 January in any year, the first reporting period for the permit is the balance of that calendar year.
- (3) The final reporting period for a permit commences on 1 January and ends on the date of the expiry, surrender, or revocation of the permit within that calendar year.

35 Royalty returns: categories of, and when and how required

- (1) A permit holder must provide to the chief executive—
 - (a) an annual royalty return for each reporting period for the life of the permit other than for the final reporting period; and
 - (b) a final royalty return for the final reporting period; and

- (c) if required to make an interim quarterly royalty payment in accordance with regulation 41(3), an interim royalty return for each reporting period concerned.
- (2) An annual royalty return and a final royalty return must be provided within 90 days of the end of the reporting period.
- (3) An interim royalty return must be provided by the due date of the interim quarterly royalty payment concerned.
- (4) All royalty returns must be submitted in the form prescribed by the chief executive.

36 Interim royalty return: contents

An interim royalty return must include—

- (a) the permit number; and
- (b) a statement specifying the calculation of net sales revenues for the quarter-year to which the return relates that includes, for each product stream, the following information:
 - (i) the quantity of the product produced; and
 - (ii) the quantity of the product sold; and
 - (iii) the quantity of the product used in production; and
 - (iv) the quantity of the product exchanged or removed without sale (other than that unavoidably lost or returned to a natural reservoir within the permit area); and
 - (v) the gross sales revenues of the product; and
 - (vi) the arm's length value of product not sold but on which a royalty is payable; and
 - (vii) the closing stocks; and
 - (viii) any allowable netbacks or net forwards; and
- (c) a statement of the royalties payable for the quarter-year; and
- (d) a declaration signed by the permit holder stating that the interim royalty return is correct.

37 Annual royalty return: contents

(1) An annual royalty return must include—

- (a) a statement specifying the calculation of net sales revenues for the reporting period to which the return relates

- that includes, for each product stream, the following information:
- (i) the quantity of the product produced; and
 - (ii) the quantity of the product sold; and
 - (iii) the quantity of the product used in production; and
 - (iv) the quantity of the product exchanged or removed without sale (other than that unavoidably lost or returned to a natural reservoir within the permit area); and
 - (v) the gross sales revenues of the product; and
 - (vi) the arm's length value of product not sold but on which a royalty is payable; and
 - (vii) the closing stocks; and
 - (viii) any allowable netbacks or net forwards; and
- (b) a calculation of the *ad valorem* royalty for the reporting period; and
 - (c) a calculation of any net allowable APR deductions and the provisional accounting profits royalty for the reporting period that includes the following information:
 - (i) production costs; and
 - (ii) capital costs; and
 - (iii) indirect costs; and
 - (iv) decommissioning costs; and
 - (v) the operating and capital overhead allowance; and
 - (vi) the operating losses and capital costs carried forward from the previous reporting period; and
 - (vii) capital proceeds; and
 - (d) a statement of the royalty payable for the reporting period; and
 - (e) the permit number; and
 - (f) a declaration signed by the permit holder stating that the annual royalty return is correct.
- (2) Despite subclause (1), the information specified in paragraph (c) of that subclause is not required to be included in the return if—
- (a) the return is for an exploration permit; or

- (b) the net sales revenue for all product streams is less than or equal to \$1 million and has never been greater than \$1 million in any (annual) reporting period; or
 - (c) the return is the final annual royalty return for the permit.
- (3) Despite subclause (1), a statement supplied under paragraph (a) of that subclause may comprise a summation of any net sales revenue details if the permit holder has already supplied an interim royalty return in accordance with regulation 36 that covers the period to which the annual royalty return relates.

Regulation 37(1)(c): amended, on 23 May 2013, by regulation 16(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 37(1)(c)(vii): inserted, on 23 May 2013, by regulation 16(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 37(1)(e): replaced, on 23 May 2013, by regulation 16(3) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 37(1)(f): inserted, on 23 May 2013, by regulation 16(3) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

38 Final royalty return: contents

A final royalty return must include—

- (a) the information required for an annual royalty return as specified in regulation 37(1)(a) to (c); and
- (b) details of any net allowable APR deductions (other than decommissioning costs or decommissioning costs carried back) that the permit holder is claiming for the return, including—
 - (i) production costs; and
 - (ii) capital costs; and
 - (iii) indirect costs; and
 - (iv) decommissioning costs; and
 - (v) the operating and capital overhead allowance; and
 - (vi) the operating losses and capital costs carried forward from all previous reporting periods; and
 - (vii) capital proceeds; and

- (c) details of the decommissioning costs carried back and any recapture of capital expenditure deductions; and
- (d) a calculation of the *ad valorem* royalty and final accounting profits royalty for any reporting period over the life of the permit for which provisional accounting profits were paid; and
- (e) a statement of any refund or overpayment of provisional accounting profits royalty claimed; and
- (f) a statement of the royalty payable for the reporting period (if any); and
- (g) a declaration signed by the permit holder stating that the final royalty return is correct.

Regulation 38(a): amended, on 23 May 2013, by regulation 17(1) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 38(b): amended, on 23 May 2013, by regulation 17(2) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

Regulation 38(b)(vii): inserted, on 23 May 2013, by regulation 17(3) of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

39 Royalty returns where permit holder 2 or more permit participants

- (1) This regulation applies if a permit holder comprises 2 or more permit participants.
- (2) A royalty return may comprise separate returns from each permit participant detailing each participant's share of the following:
 - (a) net sales revenues (in accordance with regulation 37(1)(a); and
 - (b) net allowable APR deductions (in accordance with regulation 37(1)(c); and
 - (c) royalty liability (in accordance with regulation 37(1)(d); and
 - (d) if a final royalty return,—
 - (i) decommissioning costs carried back; and
 - (ii) any recapture of capital expenditure deductions; and

- (iii) final *ad valorem* royalty and accounting profits royalty liability; and
 - (iv) any claim for refund of overpayment of provisional accounting profits royalty.
- (3) A return—
 - (a) must state the permit participant's participating interest; and
 - (b) must include a declaration signed by the permit participant stating that the return is correct; and
 - (c) may be submitted to the chief executive separately from the other returns.
- (4) If a participating interest in a permit is transferred to a new permit participant, the new permit participant must provide—
 - (a) a separate annual royalty return for the balance of the current reporting period starting from the day after the date of transfer of the participating interest; and
 - (b) if applicable, any separate interim royalty returns for the same period.

Regulation 39(2)(b): amended, on 23 May 2013, by regulation 18 of the Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151).

40 Auditor statement

Each royalty return must be accompanied by a statement, in the form prescribed by the chief executive, from an auditor (or auditors, as the case may be, if separate statements are provided by permit participants), confirming that—

- (a) the deductions set out in the return have been checked by the auditor and are in accordance with the permit; and
- (b) the calculations set out in the return have been checked by the auditor and are in accordance with the permit; and
- (c) the return has been checked by the auditor for arithmetical accuracy; and
- (d) the return has been compared with the permit holder's trial balance and the amounts in the return have been correctly extracted.

41 Payment and refund of royalties

- (1) A permit holder must pay the royalty due for any reporting period for which a royalty return must be provided within 90 days after the end of the reporting period.
- (2) Subclause (1) is subject to the rest of this regulation.
- (3) If net sales revenues are greater than \$250,000 for a quarter-year or less than a quarter-year of a reporting period, an interim quarterly royalty payment of 5% of net sales revenues must be paid within 30 days after the end of that quarter.
- (4) If a royalty return has been provided with separate statements from permit participants, the royalty due may be paid by the participants forwarding their share of the royalty due together with a copy of their statement. Any interim payment under subclause (3) may also be made by each permit participant paying an agreed share.
- (5) If the chief executive is satisfied on the basis of a final royalty return that an amount should be refunded, a one-time refund must be made to the permit holder in the manner nominated by the permit holder.
- (6) If a refund is to be made and the royalties have been paid by 2 or more permit participants, the refund must be divided between the permit participants in the same proportion as the payments were made.
- (7) If the interim royalties paid in a reporting period vary by more than 20% from the previous quarterly payment, the chief executive may require the permit holder to do 1 or both of the following:
 - (a) provide an explanation of the variance:
 - (b) provide copies of the relevant records.
- (8) If, on completion of the royalty return for a reporting period, there is a balance of royalties payable net of any interim payments made in respect of the period, the permit holder must pay the balance within 90 days following the end of the reporting period.
- (9) If, on completion of an annual royalty return, the total of interim payments exceeds the amount of the royalties due for the reporting period, the chief executive must refund the over-

payment unless the permit holder requests that it be applied against future liabilities (in which case it may be so applied).

42 Accounts and records

- (1) A permit holder must keep accounts and records that verify—
 - (a) the amount and particulars of each expenditure in each category of allowable APR deductions, including original invoices (or true copies) received from third parties and affiliates; and
 - (b) the basis of allocation of all allocated expenditures; and
 - (c) details of the petroleum produced from the permit for which royalties are payable, including details of the date, destination, value, and basis of valuation of each shipment, transfer, or other disposal; and
 - (d) details of all tangible assets including all transfers, sales, and disposals, if the costs of these have been previously recorded as allowable APR deductions; and
 - (e) the amount and particulars of each transaction included in gross sales revenues.
- (2) Accounts and records must be held for the period set out in section 33(1)(d) of the Act.

43 Transitional provision

- (1) This regulation applies to a permit—
 - (a) to which clause 4 of Schedule 1 of the Act applies; and
 - (b) that, before the commencement of the Crown Minerals Amendment Act 2013, had a royalty reporting period other than a calendar year.
- (2) If that reporting period ends after 31 December 2013, the permit holder must provide an annual royalty return for the balance of the current reporting period on 31 December 2013.
- (3) If that reporting period ends before 31 December 2013, the permit holder must provide—
 - (a) an annual royalty for that period; and
 - (b) an annual royalty return for the balance of the 2013 calendar year.

- (4) For each successive reporting period, the permit holder must provide all royalty returns in accordance with the reporting period in these regulations.
- (5) This regulation overrides regulation 34.

Michael Webster,
for Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 26 April 2013.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes

1 General

This is a reprint of the Crown Minerals (Royalties for Petroleum) Regulations 2013. The reprint incorporates all the amendments to the regulations as at 23 May 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 ***List of amendments incorporated in this reprint
(most recent first)***

Crown Minerals (Royalties for Petroleum) Amendment Regulations 2013 (SR 2013/151)
