

THE CROATIAN PARLIAMENT

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby issue the

DECISION

PROMULGATING THE OIL AND PETROLEUM PRODUCTS MARKET ACT

I hereby promulgate the Oil and Petroleum Products Market Act passed by the Croatian Parliament at its session on 12 May 2006.

Class: 011-01/06-01/05

Reg. No. 71-05-03/1-06-2

Zagreb, 17 May 2006

OIL AND PETROLEUM PRODUCTS MARKET ACT

I GENERAL PROVISIONS

Article 1

(1) This Act regulates performing of the following activities: production of petroleum products, pipeline transport of oil, transport of petroleum products through product-pipeline, wholesale distribution of petroleum products, retail sale of petroleum products, storage of oil and petroleum products and trade, mediation and agency on the oil and petroleum products market.

(2) Established by virtue of this Act is also the Croatian Agency for Compulsory Stocks of Oil and Petroleum Products (hereinafter referred to as: the Compulsory Stocks Agency), and the measures for safe and reliable oil and petroleum products supply are regulated.

(3) Provisions of this Act shall not relate to collection-transport and storage facilities for oil at production fields.

Article 2

(1) The terms used in this Act shall have the meanings laid down in the Energy Act.

(2) This Act also uses the terms that within the meaning of this Act shall have the following meanings:

1. oil – mixture of naturally occurring hydrocarbons,

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2. petroleum products – products deriving from oil (motor spirits, aviation fuels, diesel fuels, gas oils, fuel oils, marine fuels, jet fuel, kerosenes, bitumens, petroleum coke and liquefied petroleum gas),
3. negotiable approach by the third party – mode of accessing the system in which the owner of the system or the operator and the third party negotiate commercial terms of accessing the system,
4. storage of oil and petroleum products – storage of oil and petroleum products in a statutory manner in special facilities for own account (producers, consumers and transporters) with the purpose of providing safety of supply and/or for trading purposes,
5. quality standards of petroleum based fuels – standards in force prescribed by competent state authorities.

II PERFORMING THE ACTIVITY

Article 3

- (1) Energy undertaking shall hold the license for performing the energy-based activities pursuant to provisions of the Energy Act in order to carry out the activities of production of petroleum products, transport of oil, petroleum products and bio-fuels, trade in petroleum products and storage of oil and petroleum products.
- (2) The license shall not be required for performing the energy-based activities of retail sale of petroleum products and storage of oil and petroleum products stored exclusively for own account.
- (3) The license for performing the energy-based activities of transport of oil, petroleum products and bio-fuels by road vehicles and for trade, mediation and agency on the energy market may be granted to natural persons as well, under conditions laid down in the Energy Act.

Article 4

- (1) Energy undertakings performing the activity of pipeline transport of oil and petroleum products transport through product-pipeline shall provide access to legal and natural persons who file the request for accessing transport facilities, while complying with technical conditions for access and connection pursuant to special regulations in an unbiased and obvious manner pursuant to the principle of negotiable approach by the third party. Negotiable approach by the third party shall be based on tariff system for the transport of oil and petroleum products.
- (2) Tariff system for pipeline transport of oil and petroleum products transport through product-pipeline shall be enacted by Croatian Energy Regulatory Agency after securing the opinion by the energy undertaking, for performing of whose activities the tariff system applies, and that of the Ministry.
- (3) Tariff system for pipeline transport of oil and petroleum products transport through product-pipeline shall be based on the following:

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- costs, to be calculated pursuant to internationally approved practice,
- negotiated economic and financial terms,
- application of any other recognized method or combination of such methods.

(4) Energy undertakings referred to in paragraph 1 of this Article may refuse the access to transport facility to the third party where there are technological or safety limitations or if their pipeline capacities for oil or petroleum products are exhausted.

(5) The party which is refused access to the transport facility shall be communicated the dismissal decision in written with statement of grounds.

(6) The party which was refused access to transport facility or has complaint as to terms of accessing the transport facility may within 15 days from the date of receipt of the decision lodge an appeal or file on objection to approved terms of access to the Croatian Energy Regulatory Agency. The decision of the Croatian Energy Regulatory Agency shall be final.

Article 5

(1) Petroleum products placed on the market must comply with the conditions laid down in the regulations on the quality of liquid petroleum based fuels and other regulations in force at the time of placing petroleum products on the market.

(2) Petroleum products placed on the market may be added bio-fuels which shall comply with the conditions laid down in regulations on the quality of bio-fuels and other regulations in force at the moment of placing petroleum products on the market.

Article 6

(1) The Ministry shall take part in drafting the physical planning documents enacted by the Croatian Parliament.

(2) The state administration office in the county or the administration authority of the City of Zagreb competent for energy affairs shall take part in drafting the physical planning documents enacted by representative bodies of the units of local and regional self-government.

(3) Entity in charge of elaborating the physical planning documents shall secure opinion from the Ministry or the state administration office in the county, or the administration authority of the City of Zagreb in charge of energy affairs concerning the proposal of the physical planning document referred to in paragraphs 1 and 2 of this Article.

Article 7

(1) Prices of oil and petroleum products shall be set pursuant to conditions prevailing on the market.

(2) The Minister shall by way of an ordinance lay down the method of setting the maximum price level for individual petroleum products.

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(3) The calculation for setting maximum price level for petroleum products shall be based on measurable market elements involving: price of petroleum products on the market, exchange rate, import duty, costs of primary storage and distribution, margin, special taxes and other fees representing the income of the State Budget, as well as the funds referred to in paragraph 5 of this Article.

(4) By the way of exception from maximum price level set in the ordinance referred to in paragraph 2 of this Article, the Government of the Republic of Croatia may, with the aim of protecting consumers, market regulation or for other justified reasons, prescribe maximum price level for individual petroleum products for a period of not more than 90 days.

(5) From prices charged for petroleum products referred to in Article 12, paragraph 1 of this Act, the funds are assigned for financing the operations of the Compulsory Stocks Agency and for compulsory oil and petroleum products stocks in the amount which is established by the Government of the Republic of Croatia annually on proposal of the Compulsory Stocks Agency.

(6) Energy undertakings who are oil and petroleum products producers and/or importers and/or retail traders shall forward to the Ministry one working day prior to application of new prices the complete calculation of the maximum level of prices of petroleum products with the decision concerning the prices to be applied.

(7) The prices of petroleum products may not apply should the Ministry ascertain that they have not been set pursuant to the ordinance referred to in paragraph 2 of this Article.

Article 8

(1) The Ministry shall monitor and provide for safe, regular and quality supply of oil and petroleum products.

(2) The Government of the Republic of Croatia shall, on proposal of the Ministry, enact the Emergency Plan in the case of disturbance on domestic market resulting from unexpected or uninterrupted shortage of oil and petroleum products, immediate threat to independence and integrity of the state, major natural calamities, technological disasters or unexpected and major rises in the price of oil and petroleum products on the world market.

(3) The Emergency Plan referred to in paragraph 2 of this Article, apart from the measures stipulated in the Energy Act shall also regulate the following measures:

1. obligation to communicate the data on normal consumption of oil and petroleum products, as well as their format and content,
2. obligation of communicating the data in emergency cases, as well as their format and content,
3. limitation of maximum driving speed on public roads,
4. restriction on the driving of motor vehicles or other transport means powered by petroleum products,

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5. restriction on navigation of ships and aircraft powered by petroleum products,
6. restriction on working hours at petrol stations,
7. establishing the terms for consumption and replenishing of compulsory oil and petroleum products stocks,
8. price monitoring.

Article 9

(1) Energy undertakings performing the activity of wholesale distribution and/or retail sale in petroleum products shall forward to the Ministry the following:

- the data on import of oil and petroleum products related to the quantity, origin, price and quality,
- the data on prices of petroleum products without excise duties and taxes, as well as on the prices of petroleum products with all excise duties and taxes included.

(2) Energy undertakings performing the activity of production of petroleum products must forward to the Ministry the following:

- the data on planned or started investments projects,
- the data on the plant in case of decommissioning.

(3) The Minister shall stipulate by an ordinance the content and method of forwarding the data referred to in paragraph 1 and 2 of this Article.

III OPERATIONAL STOCKS OF OIL AND PETROLEUM PRODUCTS

Article 10

(1) Operational stocks of oil and petroleum products shall be formed for ensuring the stability and safety of the technological process of refining and processing of oil and petroleum products, production of heat and electricity for the market and for the buyers requiring particular safety and quality of supply.

(2) Liable for safeguarding the operational stocks are the following:

- energy undertakings producing electricity and/or thermal energy from petroleum products for the market and/or for the consumers on tariff,
- buyers of petroleum products rendering public services and producing electricity and thermal energy for own account,
- buyers of petroleum products producing electricity and thermal energy for legal and natural persons rendering public services.

(3) The method and conditions for establishing, use and replenishing of operational stocks of oil and petroleum products, the method of providing facilities for their

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storage, as well as the rights and liabilities of energy undertakings in dealing with operational stocks, shall be stipulated by the Minister.

(4) The Minister shall draw up the list of legal and natural persons referred to in paragraph 2 of this Article who must elaborate the estimate of required quantities of operational stocks pursuant to the conditions referred to in paragraph 3 of this Article and forward it to the Ministry for approval.

(5) Legal and natural persons referred to in paragraph 4 of this Article, whose estimates have been confirmed shall be deemed liable for keeping the operational stocks and must ensure the operational stocks of oil and petroleum products in compliance with the confirmed estimate.

IV COMPULSORY STOCKS OF OIL AND PETROLEUM PRODUCTS

Article 11

(1) Compulsory stocks of oil and petroleum products shall be formed for ensuring the supply of oil and petroleum products in the case of threat to energy safety of the state, resulting from extraordinary disturbances in supply.

(2) Compulsory stocks of oil and petroleum products shall be formed at the level of 90-day average consumption of petroleum products in the preceding calendar year prior to 31 July of the current year.

(3) Compulsory stocks of oil and petroleum products shall not include strategic contingency stock regulated by the Act on Strategic Contingency Stock as well as operational stocks regulated by Article 22 of the Energy Act and Article 10 of this Act, the quantities of fuel contained in tanks of vehicles and other transport means used solely for powering thereof, quantities of fuel in ship tanks, pipelines, railway tankers, tank trucks, petrol station tanks, quantities of fuel stored with end users or fuel stocks owned by the Croatian Army or quantities of fuel earmarked for the needs of the Croatian Army.

Article 12

(1) Compulsory stocks shall include the following groups of petroleum products:

I. motor spirits and aviation fuels,

II. diesel fuels, gas oils and jet fuel,

III. fuel oils (light, medium and heavy).

(2) A portion of compulsory stocks may be preserved in crude oil and semi-finished products in the quantity not exceeding 40% for groups I and II, and not exceeding 50% for group III.

(3) The Government of the Republic of Croatia shall, on proposal of the Minister, before 31 March of each year, stipulate the quantity and structure of compulsory stocks for the current year on the basis of the realized consumption of petroleum products in the preceding year.

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(4) The Government of the Republic of Croatia may reduce the quantity of required compulsory stocks in the quantity not exceeding 25%, on the account of domestic production of petroleum products from crude oil produced on the territory of the Republic of Croatia.

(5) The Government of the Republic of Croatia may modify the level of compulsory stocks stipulated in Article 11, paragraph 2 of this Act, pursuant to international obligations of the Republic of Croatia and the state of total stocks of oil and petroleum products, including strategic contingency stock of petroleum products pursuant to the Act on Strategic Contingency Stock.

(6) The Government of the Republic of Croatia shall, in the case referred to in Article 11, paragraph 1 of this Act, enact the decision on the method of use of compulsory stocks of oil and petroleum products.

(7) The method of safeguarding, dynamics of forming and replenishing of compulsory oil and petroleum product stocks, organisation of storage and regional distribution shall be prescribed by the Minister.

Article 13

(1) Energy undertakings performing the activity of production and import of petroleum products shall, before 31 January of each year, forward to the Ministry the report on quantities of oil and petroleum products produced, imported, processed and delivered in the preceding year.

(2) On basis of the report referred to in paragraph 1 of this Article, the Ministry shall establish the realized consumption of petroleum products in the previous year.

(3) The Minister shall lay down the content and format of reports referred to in paragraph 1 of this Article by way of an ordinance.

Article 14

(1) The Compulsory Stocks Agency is an autonomous, independent and non-profit public entity liable to provide for compulsory stocks of oil and petroleum products pursuant to provisions of this Act.

(2) The headquarters of the Compulsory Stocks Agency are in Zagreb.

(3) The Compulsory Stocks Agency shall be entered in the Court Register.

(4) The structure, the authorities, the working method and other issues relevant for performing the activities and operation of the Compulsory Stocks Agency shall be regulated in the Articles of Association enacted by the Governing Council subject to prior approval of the Government of the Republic of Croatia.

Article 15

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(1) The founder of the Compulsory Stocks Agency is the Republic of Croatia, while the founding rights shall be exercised by the Government of the Republic of Croatia.

(2) The Compulsory Stocks Agency shall be accountable for its operations to the Government of the Republic of Croatia.

Article 16

The activities of the Compulsory Stocks Agency are the following:

- collecting the fees for compulsory stocks of oil and petroleum products,
- purchase and sale of oil and petroleum products with the purpose of forming and replenishing the stocks,
- organisation, control and management of compulsory stocks of oil and petroleum products,
- earmarked disbursement of funds for forming and storing compulsory stocks of oil and petroleum products,
- establishing the conditions for storage of compulsory stocks of oil and petroleum products.

Article 17

(1) Operations of the Compulsory Stocks Agency shall be administered by the Governing Council consisting of 5 members appointed by the Government of the Republic of Croatia on proposal of the Ministry, one of which is the president of the Governing Council and another one is his deputy.

(2) The Governing Council shall be composed of one representative from the Ministry, one from the ministry competent for finance and three independent experts.

(3) The president of the Governing Council is the representative from the Ministry.

(4) The term of office of the members of the Governing Council is five years, while the members may be reappointed.

(5) The Governing Council shall enact the decisions by majority vote of its members.

Article 18

The Governing Council:

- controls operations of the Compulsory Stocks Agency,
- enacts the Articles of Association and other general acts of the Compulsory Stocks Agency,
- enacts the annual programme of operations and the financial plan,
- enacts the financial report,

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- appoints and dissolves the director and the deputy director.

Article 19

(1) The director and the deputy director of the Compulsory Stocks Agency shall be appointed by the Governing Council on the basis of public job announcement.

(2) The term of office of the director and the deputy director is four years, and the same persons may be reappointed.

(3) The director administers the operations of the Compulsory Stocks Agency, represents and acts on behalf of the Compulsory Stocks Agency, is accountable for operations and legality of operations of the Compulsory Stocks Agency, submits proposals of the acts of the Compulsory Stocks Agency to the Governing Council for adoption thereof, implements the decisions of the Governing Council and carries out other tasks placed under his competence by virtue of law, the Articles of Association and other acts.

Article 20

Technical tasks in the context of activities and operations of the Compulsory Stocks Agency shall be carried out by its employees.

Article 21

(1) The producers and importers of petroleum products shall pay in the fee for compulsory stocks of oil and petroleum products established pursuant to Article 7, paragraph 5 of this Act to the account of the Compulsory Stocks Agency.

(2) Insofar as petroleum products are imported in one's name and on another's behalf, the beneficiary of the import shall be liable to pay in the fee referred to in paragraph 1 of this Article.

(3) The liability for charging the fee for compulsory stocks shall be incurred:

1. at the time of delivery of petroleum product from storage facility of the producer, or wholesale storage facility of the taxpayer,
2. at the time of incurrence of customs debt, insofar as petroleum products are delivered directly to end users,
3. at the time of ascertaining the loss referred to in paragraph 4 of this Article.

(4) Loss (ullage, write-off) of petroleum products referred to in Article 12, paragraph 1 of this Act occurring in storage facilities of petroleum products with the producers and importers shall be deemed to be the quantity subject to charging the fee referred to in paragraph 1 of this Article, apart from the loss incurred by the action of force majeure.

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(5) The Compulsory Stocks Agency shall not be liable to pay in the fee referred to in paragraph 1 of this Article upon purchasing the oil and petroleum products with the purpose of forming and replenishing the stocks.

V SUPERVISION

Article 22

(1) Administrative supervision over implementation of this Act and regulations enacted on the basis thereof shall be enforced by the Ministry.

(2) Inspection supervision over implementation of this Act shall be enforced by the State Inspectorate and other competent inspectors pursuant to special regulations.

VI PENAL PROVISIONS

Article 23

(1) A fine in the amount of 100.000,00 to 500.000,00 HRK for misdemeanour shall be imposed on the energy undertaking which:

- denies access to the transport facilities (Article 4, paragraph 1),
- charges prices of petroleum products which the Ministry has ascertained as not being set pursuant to the ordinance referred to in Article 7, paragraph 2 (Article 7, paragraph 7),
- fails to comply with the measures prescribed in Article 8, paragraph 3, items 1 and 2 of this Act,
- fails to provide operational stocks of oil and petroleum products (Article 10, paragraph 5),
- fails to pay in the fee for compulsory stocks of oil and petroleum products (Article 21, paragraphs 1 and 2).

(2) A fine in the amount of 5.000,00 to 10.000,00 HRK shall be imposed on the responsible person of the energy undertaking for misdemeanour referred to in paragraph 1 of this Article.

(3) Apart from the fine for misdemeanour, the energy undertaking who committed two or more misdemeanours or has in course of a one year period repeatedly committed misdemeanours referred to in paragraph 1 of this Article may be pronounced the protective measure of banning the performing of energy-related activities for a period of up to one year, while the responsible person of the energy undertaking may be pronounced the protective measure of banning the performing of the same activities for a period of up to one year.

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Article 24

(1) A fine in the amount of 50.000,00 to 200.000,00 HRK for misdemeanour shall be imposed on the energy undertaking which:

- fails to communicate the data pursuant to Article 7, paragraph 6, Article 9 and/or Article 13, paragraph 1 of this Act,
- fails to produce the estimate of required level of operational stocks and fails to submit it for approval to the Ministry (Article 10, paragraph 4),
- fails to forward the report pursuant to Article 27, paragraph 2 of this Act,
- fails to preserve compulsory stocks of oil and petroleum products in compliance with obligation pursuant to Article 27, paragraphs 1 and 2 of this Act.

(2) A fine in the amount of 5.000,00 to 10.000,00 HRK shall be imposed on the responsible person of the energy undertaking for misdemeanour referred to in paragraph 1 of this Article.

VII TRANSITIONAL AND FINAL PROVISIONS

Article 25

(1) The Government of the Republic of Croatia shall, within 30 days from the entry into force of this Act, enact the regulation on introducing the interim account for establishing and start-up of the Compulsory Stocks Agency where the funds referred to in Article 7, paragraph 5 of this Act shall be deposited.

(2) Pending adoption of the decision referred to in Article 7, paragraph 5 of this Act, the amount for financing operations of the Compulsory Stocks Agency and the compulsory stocks of oil and petroleum products shall be set at the level of 120 HRK per tonne.

Article 26

(1) The Compulsory Stocks Agency must form compulsory stocks at the level of 90-day average consumption prior to 31 July 2012.

(2) The level of compulsory stocks of oil and petroleum products shall increase proportionally in line with Article 12, paragraph 3 of this Act, or more precisely:

- prior to 31 July 2007, at the level of 60-day effected consumption of petroleum products in 2006, of which the Compulsory Stocks Agency shall itself accumulate the stocks at the level of 40-day effected consumption,
- prior to 31 July 2008, at the level of 65-day effected consumption of petroleum products in 2007, of which the Compulsory Stocks Agency shall itself accumulate the stocks at the level of 50-day effected consumption,

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- prior to 31 July 2009, at the level of 70-day effected consumption of petroleum products in 2008, of which the Compulsory Stocks Agency shall itself accumulate the stocks at the level of 60-day effected consumption,
- prior to 31 July 2010, at the level of 75-day effected consumption of petroleum products in 2009, of which the Compulsory Stocks Agency shall itself accumulate the stocks at the level of 70-day effected consumption,
- prior to 31 July 2011, the Compulsory Stocks Agency shall itself form the compulsory stocks at the level of 80-day effected consumption of petroleum products in 2010.

Article 27

(1) Energy undertakings which have, before the date of entry into force of this Act, been liable for providing the compulsory stocks of oil and petroleum products pursuant to the Regulation on compulsory stocks of oil and petroleum products (published in Official Gazette 27/03 and 151/05) shall be obliged to preserve the compulsory stocks of oil and petroleum products until 1 August 2011.

(2) Compulsory stocks of oil and petroleum products referred to in paragraph 1 of this Article shall decrease pursuant to provisions of Article 26, paragraph 2.

(3) Energy undertaking referred to in paragraph 1 of this Article shall, within 15 days from the date of entry into force of this Act, forward to the Ministry the report on the state of compulsory stocks.

Article 28

(1) The Government of the Republic of Croatia shall appoint the Governing Council within 30 days from the date of entry into force of this Act.

(2) The Governing Council shall appoint the director and the deputy director within 3 months from the date of its appointment.

(3) The Governing Council shall enact the Articles of Association and other general acts within 3 months from the date of its appointment.

(4) The Government of the Republic of Croatia shall appoint the acting director of the Compulsory Stocks Agency within 30 days from the date of entry into force of this Act. The acting director shall be authorized to undertake the actions and carry out the preparation activities for the start-up of the Compulsory Stocks Agency and lodge the application for entering the Compulsory Stocks Agency into the Court Register.

Article 29

(1) The Minister shall enact the ordinance referred to in Article 7, paragraph 2 of this Act within 15 days from the date of its entry into force.

(2) Selling prices of petroleum products applicable on the date of entry into force of this Act shall apply until effecting the first calculation of selling prices of petroleum

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products pursuant to provisions of the ordinance referred to in paragraph 1 of this Article.

(3) The Minister shall enact the provisions referred to in Article 10, paragraph 3, Article 12, paragraph 6 and Article 13, paragraph 3 of this Act within 6 months from the date of its entry into force.

Article 30

(1) On the date of the entry into force of this Act, the Act on Oil and Petroleum Products Market (published in Official Gazette 68/01) shall cease to have effect.

(2) The Regulation on compulsory stocks of oil and petroleum products (published in Official Gazette 27/03 and 151/05) shall cease to have effect on 31 July 2007.

Article 31

This Act shall enter into force on the eighth day after the day of its publication in the Official Gazette.

Class: 310-05/06-01/01
Zagreb, 12 May 2006

THE CROATIAN PARLIAMENT
The President of the Croatian Parliament
Vladimir Šeks, m.p.