



POLICY GUIDELINES

AUDITING OF REPORTS ON OPERATIONS (FORM 5)

This paper summarises the policies and procedures used by the Department of Mines and Petroleum (**DMP**) when the auditing of a Report on Operations (**Form 5**) is required to be undertaken.

Relevant legislation

Section 115B(2) of the Mining Act 1978 (**the Act**) states that:-

“For the purpose of verifying the expenditure amount shown in an operations report, the Minister may, by notice in writing, require the holder of a mining tenement to file an audit statement, or cause an audit statement to be filed, with the Department at Perth within a period specified in the notice”.

Scope of the audit

DMP only requires the Auditor to report (by way of an audit statement) that, on the basis of the information/evidence provided to him/her by the tenement holder, the expenditure being claimed in the Form 5 for a particular mining tenement (**tenement**) was (or was **not**) in fact incurred or caused to be incurred by the tenement holder in the relevant expenditure year.

Note: The Auditor will not be required to determine whether any particular item of expenditure is properly claimable in respect of that tenement – that will be the responsibility of DMP, the Warden or the Courts (in any disputed cases).

The Statement and Purpose of the Auditing Standard Pertaining to Evidence AUS 502.02 (ISA 500.02) states that:

“The auditor should obtain sufficient appropriate audit evidence to be able to draw a reasonable conclusion on which to base the audit opinion”.

The standard specifies that sufficient and ‘appropriate’ (relevant and reliable) audit evidence should be obtained to provide a ‘reasonable’ (rational) basis for an opinion.

In this regard documentary evidence is used extensively in auditing and includes a wide variety of source documents. Examples of documentation that an Auditor may need to examine in satisfying the scope of the audit would include tax invoices for purchases made or services provided, log books in relation to expenses such as travel

and days claimed as having been spent working on the tenement, etc. It is, however, for the Auditor to determine what in his/her view is sufficient or appropriate evidence, thereby providing the basis upon which the audit opinion (and therefore the statement) will be issued.

The Auditor is required to conduct the examination in accordance with Australian Accounting and Auditing Standards. However, whilst the Standards provide a sound basis for professional practice, not every contingency will be covered. In such situations the Auditor will need to make a professional judgment.

Content of the audit statement

The audit statement must state that on the basis of the information/evidence provided to him/her by the tenement holder, the expenditure being claimed on a particular tenement in the Form 5 was (or was not) in fact incurred or caused to be incurred by the tenement holder in the relevant expenditure year. The audit statement must be prepared and signed by the Auditor, stating his/her academic qualifications to issue such a statement.

Note: The Auditor will, should he/she report that the amount reported on the Form 5 is incorrect, need to state where the adjustment is to be made in the break-up of costs on the Form 5, eg's, mineral-exploration activities, administration, overheads etc.

Requesting an audit statement on a Form 5

When an audit statement is requested in relation to a particular Form 5, the request is made in writing by the Minister (or a delegated authority) to all active holders of the relevant tenement. Only one audit statement will be required, regardless of how many parties hold shares in the tenement. The original audit statement is to be lodged at DMP's Perth Office within **60 days** from the date of the notice.

If the audit statement cannot be lodged within this 60 day period, an extension of time in which to do so must be requested by the tenement holder, stating the reason(s) why the audit statement cannot be lodged. This request must be lodged at DMP's Perth Office prior to the expiration of the 60 days.

Such a request will be considered by DMP and the tenement holder will be notified in writing of DMP's decision in this regard.

In the event that the request is approved, the new deadline for lodgement of the audit statement will be the extended date sought by the tenement holder.

In the event that the request is not approved, the deadline for lodgement of the audit statement will be extended by a further 30 days from the date of DMP's notification to the tenement holder.

Note: Failure to lodge the requested audit statement will result in the commencement of forfeiture proceedings under sections 96, 96A or 97 of the Act.

Upon receiving a request for an audit statement, the tenement holder is required to engage a person that satisfies the requirements of Section 115B(3) of the Act. This section states that:-

“An audit statement is to be prepared and signed by:-

- (a) a person registered as a company auditor, or taken to be registered as an auditor, under Part 9.2 of the Corporations Act; or*
- (b) another suitably qualified person approved by the Minister for the purposes of this section”*

In respect to **(a)** above, if a registered company auditor is engaged to conduct the audit, the auditor’s registration number must be stated on the audit statement.

In respect to **(b)** above, it would be necessary for the person to satisfy the Minister prior to the audit being commenced that they have the required skills, experience and academic qualifications to be able to conduct the audit (eg’s, a Chartered Accountant, Certified Practising Accountant or Professional National Accountant). Any application seeking such approval by the Minister should be lodged in the form of a letter at DMP’s Perth office as soon as possible after the tenement holder has received the letter requesting an audit. The tenement holder will be notified in writing of the Minister’s decision in this regard and the deadline for lodgement of the audit statement will be extended by a further 60 days from the date of this notification.

Note: Once a person has been approved by the Minister as outlined above, DMP will record that approval and henceforth accept audit statements from that person without the need for such approval to again be sought in relation to any future audit.

The person engaged to conduct the audit and prepare and sign the audit statement must also be independent of the tenement holder and, therefore, the company accountant would not be able to conduct the audit or prepare/sign the audit statement. However, the company accountant may (as often is the case in commercial practice) assist the person engaged to conduct the audit, eg, providing copies of relevant documentation, etc.

Actions by DMP following the lodgement of an audit statement

Upon the lodgement of an audit statement, the statement will be examined to determine what, if any, action is required to be taken by DMP.

If the Auditor confirms that the amount reported on the Form 5 is correct, no further action by DMP or the tenement holder will be required.

In the event that the Auditor does not confirm that the amount reported on the Form 5 is correct, Section 115B(4) of the Act will then apply, and states that:-

“If the audit amount differs from the expenditure amount shown in the operations report, the Minister may determine in writing that the audit amount is to be regarded as the expenditure amount for the purposes of this Act”.

Where the audit amount is different to that reported on the Form 5, the following actions will be taken by DMP:-

- In the event that expenditure for the relevant period has been met and the audit amount varies from the reported expenditure but does not result in an expenditure shortfall, MiTiS, (DMP's electronic register) will be adjusted to reflect the audit amount, with no further action by DMP or the tenement holder being required.
- In the event that reported expenditure purports to meet the minimum commitment on the tenement but the audit amount results in an under expenditure, DMP will take the following actions:-
 - MiTiS will be amended to show the new audit amount in the Form 5 "field" (both in total and break-up) as at the date the subject Form 5 was originally lodged; and
 - A Notice of Intention to Forfeit will be issued to the tenement holder pursuant to Regulation 50 of the Mining Regulations 1981, giving the tenement holder 30 days in which to provide a submission for the Minister's consideration as to why the tenement should not be forfeited.

Note: This would also apply if the audit amount resulted in a further shortfall than previously reported by the tenement holder and for which a pending application for exemption from the expenditure condition was not sufficient to meet this further shortfall.

- In the event that a Form 5 reports that the minimum expenditure on the tenement has not been met (with an application for exemption from expenditure condition pending) but the audit amount in fact meets or exceeds the minimum expenditure condition on the tenement for the relevant year, DMP will take the following actions:-
 - MiTiS will be amended to reflect the new audit amount (both in total and break-up) as at the date the subject Form 5 was originally lodged; and
 - The tenement holder will be asked to withdraw the (now unnecessary) pending application for exemption from expenditure condition.

Note: No refund of the exemption application fee will be made.

Initiation of forfeiture proceedings

DMP will commence forfeiture proceedings if a tenement holder has failed to lodge the required audit statement by the due date or if the audit amount results in an under expenditure on the relevant tenement.

Regarding exploration licences and mining leases, the tenement holder will be issued with a Notice of Intention to Forfeit as provided in Regulation 50. The tenement holder may then make a submission for the Minister's consideration.

Anything the tenement holder considers relevant may be included in the submission, however, of particular interest to the Minister would be the circumstances surrounding the audit amount being different to the amount having earlier been reported on the Form 5.

Following consideration of the submission, the Minister may take no further action, impose a penalty (fine), or forfeit the tenement pursuant to sections 96A or 97 of the Act.

If forfeiture is commenced in respect to a prospecting licence, the provisions of Regulation 49 will apply. The Warden, as he thinks fit in the circumstances of the case and depending on the mitigating circumstances brought to his attention by the tenement holder, may take no further action, impose a penalty (fine) or forfeit the prospecting licence pursuant to section 96 of the Act.

Confidentiality of information contained within the audit statement

The audit statement is not considered to be a “searchable” document and therefore the information contained within the statement will not be released or published by DMP.

Any party seeking a copy of a particular audit statement would need to make an application to DMP under the *Freedom of Information Act 1992*.