



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

MINISTRY OF MINES AND ENERGY

No. 122

2016

AMENDMENT OF PETROLEUM PRODUCTS REGULATIONS: PETROLEUM PRODUCTS AND ENERGY ACT, 1990

In terms of section (2) and (2A) of the Petroleum Products and Energy Act, 1990 (Act No. 13 of 1990), I make the regulations as set out in the Schedule.

O. KANDJOZE
MINISTER OF MINES AND ENERGY

Windhoek, 30 May 2016

SCHEDULE

Definitions

1. In this Schedule “the Regulations” means the Petroleum Products and Energy Regulations, published under Government Notice No. 155 of 23 June 2000 as amended by Government Notice Nos. 3 of 2001, 202 of 29 November 2002 and 75 of 23 July 2003.

Amendment of regulation 1

2. Regulation 1 is amended by -

- (a) the insertion after the definition of “consumer installation” of the following definitions:

“commercial user” means an installation at commercial or industrial undertaking operating its own petroleum consuming equipment and operating the undertaking or company’s or industrial undertaking’s own vehicle or train operated for its own productive purposes and the undertaking must be contractually bound by the company not to resell petrol supplied from such installations and for the purposes of this definition, resell includes the supply of petrol and diesel from such installations to any other vehicle or equipment not provided for in this definition;

“company” means oil marketing company designated by the Minister for storage, supply, distribution and marketing of petroleum in Namibia; and

- (b) the insertion after the definition of “local authority area” of the following definitions:

“marker” means chemicals approved by the Minister and which are introduced into petroleum products;

“marking” means the introduction of a marker or a substance into a petroleum product, mixing of diesel, petrol and kerosene with the correct quantity of marker or substance required for these products calculated and manually poured into the compartment or fuel tanker approved by the Minister; and

“marking company” means the marking company contracted by the Ministry or the nominee of the marking company designated to mark all petroleum products, sample, analyse, report and manage the marking program.”.

Insertion of Chapter 5 in the Regulations

3. The Regulations are amended by the insertion after Chapter 4 of the following Chapter:

“CHAPTER 5 MARKING OF PETROLEUM PRODUCTS

Appointment of marking company for petroleum products

65. (1) For the purposes of this Chapter petroleum products includes petrol and diesel excluding Jet A1 fuel and kerosene or paraffin.

(2) The Minister must for purposes of marking petroleum products, appoint a company to mark petroleum products and to provide a complimentary service as may be required.

Transportation of petroleum product

66. A person transporting for re-sale, storage or transit of a petroleum product must –
- (a) ensure that the petroleum product is marked with markers specified in Form PP/13; and
- (b) label the area of the source as specified in Form PP/14 or any other location which may be identified by the Minister and notified in the regulations.

Marking petroleum product

67. (1) Every company must ensure that a petroleum product leaving for the inland storage terminal or which is destined for a retailer, commercial user or is in transit through Namibia is marked in terms of these regulations.

(2) A ferrying company must, before distributing or delivering a petroleum product, notify the marking company to mark such petroleum product.

Inspection and testing of petroleum products

68. An inspector may –

- (a) enter and search without a warrant any premises, any vehicle, vessel or any receptacle;
- (b) seize, without a warrant, a whole batch or a sample of any petroleum product for purposes of monitoring or verifying compliance with the provisions of this Chapter;
- (c) send petroleum products for testing to a laboratory approved by the Minister;
- (d) demand of any person who owns, offers for sale or supplies petroleum products governed by these Regulations, any relevant documentation in respect of such petroleum products and such person must, if so instructed, provide the inspector with such documentation; and
- (e) from time to time, for purposes of monitoring compliance with these Regulations, sample and test petroleum products in terms of standards approved by the Minister.

(2) The results of any test or examination conducted under this Chapter may be available to the marking company, to the Ministry, the concerned company and the concerned party from whom the sample is taken where a specific request is made.

Unauthorised dilution

69. (1) An operator of an undertaking or any person from whom a sample of petroleum product is taken under these regulations commits an offence, if the results of an examination of that sample reveals -

- (a) that the marker in the petroleum product is diluted by a margin of ten percent or more; or
- (b) that an unauthorised product has been added to the petroleum product.

(2) An operator or a person who contravenes subregulation (1) commits an offence and if found guilty is liable upon conviction to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.

(3) The Minister may confiscate and dispose of petroleum product in an environmentally accepted manner in terms of these Regulations.

Prohibition to trade in unmarked petroleum product

70. (1) A company, retailer, commercial user or operator of an undertaking or any other person may not sell a petroleum product that is not marked.

(2) A company, retailer, operator of an undertaking or a person who contravenes subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.

(3) The Minister may, in addition to the penalty under subregulation (2) where an operator of an undertaking or any person is convicted of an offence under this regulation -

- (a) suspend the licence of such a company, retailer or commercial user until a remedy in terms of these regulations is adhered to; or
- (b) suspend the operations of a service station as in terms of regulation 70(2) where the service station is owned by a retailer until the retailer remedies the situation to the satisfaction of the Ministry.

Unauthorised possession of marker

71. A person who, without legal authority, is found in possession of the marker commits an offence and is liable on conviction to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.

Interference with marked petroleum product

72. A person who illegally diverts or causes to be diverted to another use any petroleum product that is intended for a specific use, or uses any such petroleum product, knowing it to have been wrongfully or unlawfully diverted, commits an offence and is liable on conviction to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.

Unauthorised sale of petroleum product

73. Any person who sells any petrol, diesel, or a mixture of the substances at a roadside, dwelling place, warehouse, shelter or any other unauthorised outlet commits an offence and is liable upon conviction to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.”.

Amendment of Annexure B to the Regulations

4. Annexure B to the Regulations are amended by the insertion after Form PP/12 of the following forms:

"FORM PP/13

MINISTRY OF MINES AND ENERGY
PETROLEUM PRODUCTS AND ENERGY ACT, 1990 PETROLEUM PRODUCTS
REGULATIONS, 2000

MARKING OF PETROLEUM
(Regulation 66)

Fuel	Domestic
Petrol	NM 01
Diesel	NM 01

FORM PP/14

MINISTRY OF MINES AND ENERGY
PETROLEUM PRODUCTS AND ENERGY ACT, 1990: PETROLEUM PRODUCTS
REGULATIONS, 2000

LOCATION
(Regulation 66)

Walvisbaai
Luderitz".
