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THE PETROLEUM ACT
(No.21 of 2015)

THE PETROLEUM (MARINE LOADING AND OFF LOADING OPERATIONS) RULES, 2016

(Made under section 259 (1))

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THE PETROLEUM ACT
(No.21 of 2015)

THE PETROLEUM (MARINE LOADING AND OFF LOADING OPERATIONS) RULES, 2016

(Made under section 259(3))

PART I PRELIMINARY PROVISIONS

Citation

1. These rules may be cited as the Petroleum (Marine Loading and Off Loading Operations) Rules, 2016.

Application

2. These rules shall regulate the activities of petroleum marine loading and off loading operations and related matters in Mainland Tanzania.

Interpretation

3. In these rules, unless the context otherwise requires:

No. 21 of 2015

"Act" means the Petroleum Act;

"adequate skilled personnel" means a person that has relevant knowledge and at least five (5) years experience in petroleum handling operations;

"Agency" means the Petroleum Bulk Procurement Agency established under the Executive Agencies (The Petroleum Bulk Procurement Agency) Order, 2015;

"annual fee" means a fee payable annually by a licensee as shall be prescribed by the Authority from time to time;

"applicable law" means any principal law, treaty, convention, proclamation, regulation, rule, order or by-law that is customarily treated in Tanzania as having legally binding force and which is relevant to matters pertaining to the regulation of marine loading and offloading operations;

Cap. 130

"approved specification" means any specification or standard in relation to a petroleum product applied by the Authority and as approved by the Tanzania Bureau of Standards pursuant to the Standards Act, or any other standards that are widely used for Good Petroleum Industry Practices;

Cap. 414

"Authority" means the Energy and Water Utilities Regulatory Authority established under the provisions of the EWURA Act;

Cap. 245

"certification authority" means the Weights and Measures Agency established under the provisions of the Executive Agencies Act;

Cap. 191

"Council" means the National Environment Management Council established under the provisions of the Environment Management Act;

Cap. 414

"compliance order" means an order issued by the Authority pursuant to section 39 of the EWURA Act;

"dangerous situation" means a situation involving a petroleum product that:

(a) endangers the safety or health of a person, or the safety of a person's property; or
(b) creates an immediate risk of significant environmental harm;

"ETA" means Expected Time of Arrival;

"ETB" means Expected Time to Berth;

"ETC" means Expected Time to Completely Discharge;

Cap. 414

"EWURA Act" means the Energy and Water Utilities Regulatory Authority Act;

"facility" means a port berthing infrastructure that is used for loading and offloading of petroleum or a petroleum product and includes a marine jetty, dolphin, single point mooring, pipeline, manifold, storage tank, building, and fire fighting system in respect of which a regulated activity is carried out but does not include the pipeline from manifold to the shore tank;

Cap. 285

"Fair Competition Commission" means the Commission established under the provisions of the Fair Competition Act;

"good petroleum industry practice" means any conduct related to a petroleum product intended to preserve product quantity, quality and meets generally accepted health, safety and environmental requirements;

"incident" means:

(a) an event that involves a leakage of a petroleum product from a storage facility;
(b) a spill of a petroleum product as a result of dispensing or offloading activities;
(c) death or personal injury occurring as a consequence of an action that is related to a licensed activity;
(d) a fire or an event incidental thereto that results from an action that is related to a licensed activity;
(e) an event that results in an emergency

shutdown of a licensed facility; and

(f) any other significant event that may adversely affect the conduct of a licensed activity;

"inspector" means an officer or an agent of the Authority appointed by the Authority to perform the functions of inspection as required under the Act and applicable law;

"KOJ" means Kurasini Oil Jetty;

"licence" means an authorization issued by the Authority to undertake a regulated activity;

"licensee" means the holder of a licence;

"licence fee" means a fee payable by a licensee as shall be prescribed by the Authority from time to time;

"marine loading and offloading operations" means an activity related to receiving or discharging of petroleum or a petroleum product from the marine vessel to the shore tank and vice versa;

"marine vessel master" means a person in charge of a marine vessel;

"OMC" means a holder of a petroleum wholesale licence issued by the Authority;

"operator " means a person who conducts a regulated activity;

"petroleum" means petroleum crude and any liquid made from petroleum crude, coal, schist, shale, tree, peat or any produce of petroleum crude and includes condensate;

"petroleum independent surveyor" means an entity certified by the certification authority and registered by the Authority to supervise marine loading and offloading operations;

"petroleum product" means an organic compound, pure or blended, which is derived from the refining or processing of petroleum crude oils, bio-fuels, or synthetic fuels and include:

(a) asphalts, bitumen, petroleum coke and other residual product;
(b) bunkers or heavy residual fuel oils for combustion engines or industrial heat processes, such as burners for boilers or heating furnaces;
(c) gasoil or automotive diesel, biodiesel, industrial marine diesels or synthetic diesel;
(d) gasoline, bionaptha or a bioethenol product;
(e) kerosene or other similar oils for illumination or combustion applications;
(f) lubricating oils, base oil or refined and blended finished oil;
(g) liquefied petroleum gas (LPG);
(h) turbo fuels for jet propulsion engines; and
(i) other product or by-products of petroleum crude processing having a Flash Point lower than 120 degrees Celsius, and determined in a Pensky-Martens Closed Cup (PMCC) test apparatus;

"petroleum product spill" means the discharge of a petroleum product of more than two hundred litres from its primary containment onto or into any land or water, or any structure or thing;

"pipeline" means all parts of physical facilities through which petroleum or a petroleum product moves from the marine vessel to the shore tank or from the shore tank to the marine vessel, including the pipes within a facility, pipes from manifold to the shore tank, valves, and other appurtenances attached to the pipe, metering station, pumping station, holder, and fabricated assembly;

"regulated activity" means an activity necessary to operate a facility and includes all activities in respect of such facility and any activity reasonably required in connection with marine loading and offloading operations;

"serious violation" means a breach of the requirements of occupational health, safety and environmental matters or a breach of the terms and conditions of a licence, the Act or applicable law which are of such magnitude that pose an imminent danger to lives and property;

"SBM" means Single Buoy Moring;

"supervisor" means the operator or other person responsible for the management and monitoring of a licensed facility and is deemed to be authorized to:

(a) grant an inspector access to a licensed facility, answer their questions and witness the taking of samples and the carrying out of inspections; and

(b) identify physical defects and operational deficiencies within the licensed facility and, as required, take decisions related to the suitability of such licensed facility for use;

Cap. 285

"Tanzania Revenue Authority" means the authority established under the provisions of the Tanzania Revenue Authority Act;

"tariff" means a written statement of rates and charges approved by the Authority for services relating to pipelines;

Cap. 130

"tariff order" means an order issued by the Authority that sets out the applicable charges, fees, price or rate in the operation of a pipeline.

"TBS" means the Tanzania Bureau of Standards established under the Standards Act;

Cap. 285

"Tribunal" means the Fair Competition Tribunal established under the provisions of the Fair Competition Act;

"vehicle" means any car, machinery, ship, truck, railway wagon, barge or other means of transporting a petroleum product; and

Cap. 245

"WMA" means Weight and Measures Agency established under the provisions of the Executive Agencies Act.

PART II
APPLICATION FOR A CONSTRUCTION APPROVAL

Application for Construction Approval

4. – (1) No person shall construct a facility without seeking and obtaining a construction approval from the Authority in a manner provided herein.

(2) Any person who intends to construct a facility

shall lodge an application with the Authority by filling in the application form to be prescribed by the Authority which form shall provide:

(a) the applicant's name, business address, telephone number and fax number and email address;

(b) the location and complete address of the proposed facility;

(c) details of the proposed facility clearly showing the lay out plan and the coordinates of the proposed facility which shall include the proposed pipeline route and length;

(d) the proposed maximum allowable operating pressure of the proposed pipeline;

(e) the proposed dates for commencement and completion of the facility;

(f) proof of land ownership and right of use of the land through which the proposed facility is to be constructed onshore;

(g) a permit from a relevant authority including the Ministry responsible for Land affairs, Tanzania Port Authority, the Maritime Authority and the Local Authority approving the construction of the proposed facility offshore;

(h) a business plan describing the scope of the regulated activity;

(i) financial closure of the facility;

(j) plans and design specifications of the proposed facility;

(k) a certified copy of an environmental impact assessment certificate issued by the responsible minister;

(l) details of any environmental impacts of the proposed facility and the proposed measures to eliminate or minimize those impacts; and

(m) any other information as shall be required by the Authority.

Application to be Accompanied by a Fee

5. An application for a construction approval under rule 4 (2) shall be accompanied by a non-refundable application fee as shall be prescribed by the Authority from time to time.

Publication of a Construction Approval

6. – (1) An application for a construction approval received by the Authority shall be evaluated to verify its completeness and legality of information contained therein and thereafter a notice of the application shall be published in at least two newspapers of wide circulation in Tanzania one in English and another in Kiswahili with a view to soliciting comments and representations on the application.

(2) The costs of publication of notices under sub-rule (1) shall be borne by the Authority.

(3) The public shall be invited to submit comments and representations within twenty one days from the date of publication of the notice and the comments and representations shall be considered by the Authority in arriving at the decision on the application.

Grant of a Construction Approval

7. - (1) The Authority may, upon consideration of an application for construction approval:

(a) deny the application;
(b) grant the application and issue a construction approval; or
(c) refer back the application.

(2) The Authority shall, while making a decision whether to grant or deny a construction approval, consider:

(a) the applicant's compliance with the provisions of rule 4 (2);
(b) the applicant's compliance to marine laws;
(c) the applicant's compliance to health, safety and environmental requirements; and
(d) any objection or representation received from the public pursuant to rule 6 (1).

(3) The Authority may, if it is of the view that the proposed construction of the facility should be altered in order to provide access to third parties, inform the applicant and request the applicant to supply reasons as to why the application should not be considered subject to the imposition of such condition.

(4) The Authority shall within 60 days of receipt of a complete application, evaluate the application together with comments received (if any) and make a decision whether to grant or deny the application for a construction approval.

(5) The Authority shall, before issuing a construction approval under sub-rule (1) of this rule, cause it to be published in the *Government Gazette* as required by the provisions of the Act.

(6) The applicant shall, after issuance of an approval by the Authority, be notified to collect the approval within fourteen (14) days from the date of issuance.

(7) The Authority shall, in the event that it denies an application for a construction approval, inform the applicant of such decision in writing, including the reasons thereof.

Validity and Duration of a Construction Approval

8. A construction approval issued by the Authority in rule 6 shall remain in force for such period as the Authority may allow provided that in the event the holder of the said approval fails to commence construction within twelve months from the date it was issued such construction approval shall cease to have effect.

Notice of Commencement

9. Any person with a construction approval shall issue a notice to the Authority of commencement of construction thirty days prior to the commencement of construction.

Suspension and Revocation of a Construction Approval

10. – (1) The Authority may, by notice in the *Government Gazette*, suspend or revoke a construction approval if any of the terms and conditions thereof have not been complied to.

(2) Where the Authority intends to revoke, suspend or amend a construction approval it shall, at least twenty-one days before the date of the intended revocation, suspension or amendment notify the holder of such approval about the intention and the reasons thereof.

(3) Notwithstanding the provisions of sub-rule (1) and (2) of this rule the Authority may, by notice in the *Government Gazette*, withdraw or suspend a construction approval on the application or with the consent of the holder of such approval.

(4) The Authority may, by notice in the *Government Gazette*, reinstate a construction approval revoked or suspended under sub-rule (1) if satisfied that the reasons for the revocation or suspension no longer exist.

PART III LICENSING PROCEDURES

Licensing of a Regulated Activity

11. - (1) No person shall conduct a regulated activity without a licence.

(2) Any person conducting a regulated activity without a licence shall, not later than three months after coming into force of these rules, apply to the Authority for a licence in respect of such regulated activity.

(3) Any person who contravenes the provisions of sub-rules (1) and (2) of this rule commits an offence and shall be liable on conviction, to a fine of twenty million shillings or imprisonment for a term not exceeding two years or to both.

Power to Enter and Close a Facility

12. Notwithstanding the penalty prescribed under rule 11 (3), the Authority shall enter upon any facility and close it down, in the event it determines that any person has contravened the provisions of rules 11 (1) or 11 (2).

Minimum Licensing Requirements

13. – (1) No person shall be issued with a licence unless their application meets the necessary technical requirements which include:

(a) possession of a facility that is constructed in accordance with approved specification; and
(b) possession of adequate skilled personnel;

(2) Notwithstanding the generality of sub-rule (1) of

this rule, the Authority may issue a licence with specific conditions to be fulfilled within a prescribed time to an applicant who fails to meet some of the requirements in sub-rule (1).

Licence Application

14. - (1) An applicant for a licence shall apply to the Authority for a licence by filling in the appropriate form prescribed by the Authority, and shall lodge such application with the Authority, together with such other documents or records as may be required by the Authority or applicable law.

(2) Notwithstanding the provision of sub-rule (1) of this rule, an application for a licence shall be accompanied by:

(a) certified copies of the applicant's registration documents;
(b) details of the facility showing clearly the layout plan and the coordinates of the facility which shall include the pipeline route;
(c) if an environmental assessment study has been conducted, a certified copy of the certificate;
(d) a business plan describing the scope of the regulated activity;
(e) a description of the proposed tariff to be applied to the facility;
(f) a certified copy of tax identification number certificate;
(n) proof of land ownership and right of use of the land through which the proposed facility is to be constructed onshore;
(g) a permit from the relevant authority approving the construction of the facility offshore; and
(h) any other information as shall be required

by the Authority.

Licence Application to be Accompanied by a Fee

15. An application for a licence shall be accompanied by a non-refundable application fee prescribed by the Authority from time to time.

Publication of a Licence Application

16. – (1) A licence application received by the Authority shall be evaluated to verify its completeness and legality of information contained therein and thereafter a notice of the application shall be published in at least two newspapers of wide circulation in Tanzania one in English and another in Kiswahili with a view to soliciting comments and representations on the application.

(2) The costs of publication of notices under sub-rule (1) shall be borne by the Authority.

(3) The public shall be invited to submit comments and representations within twenty one days from the date of publication of the notice and the comments and representations shall be considered by the Authority in arriving at the decision on the application.

Grant of a Licence

17. - (1) The Authority may, upon consideration of an application for a licence:

(a) deny the application;
(b) grant the application and issue a licence; or
(c) refer back the application.

(2) The Authority shall, while making a decision to grant or deny a licence, take into consideration:

(a) the minimum licensing requirements set out in rule 13;
(b) compliance to land ownership and land use laws;

(c) a permit from the relevant authority approving offshore construction of the facility;

(d) any objection or representation received from the public pursuant to rule 16;

(e) the applicant's record of compliance with the Act, these rules and other applicable laws;

(f) economic efficiency of the facility and benefit to the public of the facility;

(g) compliance of the facility on matters including:

 (i) safety;

 (ii) health;

 (iii) security;

 (iv) handling of hazardous substances; and

 (v) environment; and

(h) any other matter relevant to the orderly conduct of marine loading and offloading operations in Mainland Tanzania.

(3) The Authority may deny issuing a licence where it determines that:

(a) the applicant does not meet the requirements of sub-rule (2) of this rule;

(b) the applicant's activities may not be conducted in accordance with safety, health and environment requirements; or

(c) the applicant has violated the mandatory requirements provided under applicable law and the Act.

(4) After issuance of a licence, the applicant shall be notified to come and collect it upon payment of a licence fee and an annual fee.

(5) The Authority shall, in the event that it denies or refers back an application for a licence, inform the applicant of such decision in writing, including the reasons thereof.

Validity and Duration of a Licence

18. - (1) The term of a licence shall be for a period of five years.

(2) A licence shall remain valid for the period stated in sub-rule (1) of this rule, unless extended or renewed in accordance with rule 19 and 23, provided, however, that the Authority may, on the written application of a licensee, extend the period for such further period as the Authority may determine.

(3) Notwithstanding the provisions of sub-rule (1) and (2) of this rule, a licence shall cease to have effect if the respective licensee fails to conduct the regulated activity within six months after issuance of the licence.

Application for Extension of a Licence

19. – (1) A licensee may, not less than six months before expiration of a licence term, apply to the Authority for extension of its licence.

(2) Application for extension of a licence as provided in sub-rule (1) of this rule shall be in writing by filling in an application form to be prescribed by the Authority.

(3) The Authority shall, while making a decision whether to grant or deny an application for extension of a licence, consider the applicant's compliance to applicable law and the conditions of the licence which is due to expire.

(4) The Authority shall, in the event that it denies an

application for extension of a licence, inform the applicant of such decision in writing, including the reasons thereof.

Application for Transfer of a Licence

20. - (1) No licence shall be assigned or transferred to another person without a written approval of the Authority.

(2) Any transferee or assignee of a licence shall apply to the Authority by filling in the appropriate form prescribed by the Authority, and lodge it with the Authority, together with other documents or records as may be required by the Authority or applicable law.

(3) Notwithstanding the provisions of sub-rule (1) of this rule no application for a transfer or assignment of a licence shall be entertained by the Authority unless it is endorsed by the transferor or assignor.

(4) An application received by the Authority under sub-rule (2) of this rule shall be evaluated to verify its completeness and legality of information contained therein and thereafter a notice of the application shall be published in at least two newspapers of wide circulation in Tanzania, one in English and another in Kiswahili with a view to soliciting comments and representations on the application.

(5) The costs for publication of the notice under sub-rule (4) shall be borne by the Authority.

(6) The public shall be invited to submit comments and representations within fourteen days from the date of publication of the notice and the comments and representations shall be considered by the Authority in arriving at the decision on the application.

(7) The Authority shall, after the expiration of the

notice in sub-rule (3) of this rule, evaluate the application together with comments received (if any) and make a decision whether to grant or deny the application for transfer or assignment as the case may be.

Change of Name

21. – (1) A licensee may change its name pursuant to the provisions of these rules and applicable law.

(2) A licensee who has changed its name shall, within thirty days after such change, notify the Authority in writing about such change, which shall be accompanied by a certificate of change in name issued by the Registrar of Companies.

Change in Shareholding Structure

22. - (1) Any change in shareholding structure of a licensee shall require a written approval of the Authority.

(2) A licensee, intending to change its shareholding structure shall, before applying for the change in shareholding structure to the Registrar of Companies apply for the approval to the Authority by submitting a letter to the Authority requesting for the approval.

(4) The Authority may, before approving the application for change in shareholding structure in sub-rule (2) of this rule, consult the Fair Competition Commission and the Tanzania Revenue Authority.

Application for Renewal of a Licence

23. – (1) A licensee may, not less than six months before expiration of a licence term, apply to the Authority for renewal of its licence.

(2) Application for renewal of a licence as provided in sub-rule (1) of this rule shall be in writing by filling in

an application form to be prescribed by the Authority.

(3) The Authority shall, while making a decision whether to grant or deny an application for renewal of a licence, consider the applicant's compliance to applicable law and the conditions of the licence which is due to expire.

(4) The Authority shall, in the event that it denies an application for renewal of a licence, inform the applicant of such decision in writing, including the reasons thereof.

Suspension or Revocation of a Licence

24. A licence may be:

(a) suspended by the Authority for a period of twelve months in case of a serious violation of the provisions of these rules, licence conditions, the Act or applicable law; or
(b) revoked by the Authority if a licensee fails to remedy or desist from an act or omission constituting a serious violation within the prescribed time.

PART IV
OBLIGATIONS OF A LICENSEE

General Obligations of a Licensee

25. A licensee shall:

(a) comply with:
    (i) any applicable law;
    (ii) these rules;
    (iii) orders and directions of the Authority;
    (iv) applicable codes and

standards on safety, hazardous substances, security, health and environment; and

(v) Good Petroleum Industry Practices;

(b) undertake reliable and safe marine loading and offloading operations;

(c) not engage in any activity that impedes or may impede either proper implementation of the regulated activity or any regulated activity of another licensee;

(d) ensure it manages the regulated activity in a manner that is consistent with the principles of ensuring technical expedience and the objective of achieving the highest quality of marine loading and offloading operations;

(e) operate and maintain the facility;

(f) carry out all works related to the facility in accordance with Good Petroleum Industry Practices;

(g) inform the Authority as soon as practicable, but in any event not more than twenty-four hours after the occurrence of a dangerous situation or incident related to its regulated activity, that occurs within its facility, including the steps taken or proposed to be taken to remedy such situation or to eliminate or minimize the danger arising from such situation;

(h) ensure that when the facility is left unattended:

(i) all electrical power to the storage terminal and pumping equipment is switched off; and

(ii) all pipelines related equipment are adequately secured to prevent unauthorized access and use;

(i) employ a sufficient number of qualified personnel to ensure that the conduct of its regulated activity complies with these terms and conditions;
(j) conduct its regulated activity in compliance with health, safety and environmental laws;
(k) pay applicable fees;
(l) submit to the Authority in a true and correct form all data and information the Authority may require;
(m) notify the Authority of any change of its address, name or location not later than seven days after such change;
(n) notify the Authority for approval thirty (30) days before it installs additional facility related to its regulated activity;
(o) notify the Authority and its customers in writing ninety (90) days prior to a planned disruption of a regulated activity;
(p) ensure that any service to be provided in the course of the regulated activity shall be just and reasonable and the licensee shall not show undue discrimination against any particular person of any class or description as regards any aspect of any service;
(q) accord full cooperation to the Authority during investigation or monitoring exercise conducted over the regulated facility;
(r) establish and maintain records pursuant to applicable law and orders and directions of the Authority;
(s) provide the Authority with full access to its records, documents, sites and assets pursuant to these rules and applicable law;
(t) ensure the safe disposal of any petroleum product and waste oil;

(u) procure and maintain in force a valid insurance cover in respect of all liabilities that may arise from the conduct of its regulated activity;

(v) not keep fireworks or any other instruments or products in or near a regulated facility that might pose a risk of fire or otherwise;

(w) ensure that a supervisor is present at a facility at all times, and in his absence any person employed or acting as an agent of a licensee at a facility shall perform the duties of a supervisor;

(x) not abandon a facility other than in accordance with the licence conditions, these rules, the Act, applicable law or directions of the Authority;

(y) display in a conspicuous place at a facility a licence or a certified copy thereof;

(z) provide appropriate security system for the facility;

(aa) not engage in any activities that disrupt or interfere with competition; and

(bb) as soon as practicable, but in any event not later than thirty days after it becomes aware of the fact, notify the Authority:

(i) if it is unable to conduct its regulated activity; or

(ii) if the conduct of its regulated activity would or might lead to the breach of any of these rules or materially affect its operations.

Technical Obligations of a Licensee

26. A licensee shall:

(a) maintain and operate a facility in a manner that is complaint with health, safety and environmental requirements;

(b) ensure that the marine loading and offloading operations are conducted in a manner that there is no petroleum or petroleum product contamination;

(c) ensure there is safe and secure infrastructure to undertake the regulated activity;

(d) ensure the availability of support infrastructure to facilitate berthing of a marine vessel;

(e) ensure the availability of adequate fire-fighting equipment;

(f) ensure the availability of adequate clear and visible warning signs through the facility;

(g) ensure availability of adequate skilled personnel to supervise marine loading and offloading operations;

(h) provide access to an independent surveyor to carry out its obligations;

(i) prepare and maintain a manual containing procedures for the facility operations, corrosion control, integrity management, maintenance and repair; and upon request, file a copy of such manual with the Authority for review; the manual shall include provision for evaluation and mitigation of stress corrosion cracking when the pipeline has been disbonded or has non-functional external coatings;

(j) ensure that the manual referred to in sub - paragraph (i) is updated as necessary to;

  (i) ensure that the contents are correct; and

  (ii) demonstrate that the procedures contained in the manual are being implemented;

(k) prepare and maintain an emergency response plan for the facility in accordance with Good Petroleum Industry Practice and submit a copy to the Authority for review on request;

(l) update the emergency response plan for the facility, as necessary;

(m) conduct training on carrying out emergency response plans;

(n) ensure that it has the capability to immediately respond to spills;

(o) maintain and submit upon request by the Authority records of all inspection conducted;

(p) ensure that all warning signs are updated;

(q) take necessary preventive measures to reduce pollution resulting from the regulated activity;

(r) observe strict environmental, health, and industrial safety standards as required by applicable law;

(s) not decommission its facility otherwise than pursuant to these rules and applicable law;

(t) prior to effecting any major replacement or maintenance of a facility or part thereof, notify the Authority not less than fourteen days prior to commencing such replacement or installation;

(u) ensure that a metering system at the facility and related equipment is calibrated for correct measurements by the certification authority; and

(v) ensure that a metering system at the facility and related equipment is in good working condition in accordance with approved specifications and Good

Petroleum Industry Practices.

Commercial Obligations of a Licensee

27. A licensee shall:

(a) charge to customers a tariff as approved by the Authority;
(b) ensure that the agreed delivery schedule of the marine vessel is adhered to;
(c) not discriminate between a customer or a class of a customer regarding access, tariff, conditions or service except for objectively justifiable and identifiable grounds approved by the Authority; and
(d) print a licence number on all accounting documents employed in its regulated activity, including invoices, delivery notes and receipts.

Protection of Lives and Property

28. - (1) A licensee shall, while conducting marine loading and offloading operations, take such precautions and exercise such care as may be reasonable under the circumstances in order to:

(a) avoid endangering the safety or health of any person, or the safety of any person's property; and
(b) prevent risk of significant environmental harm.

(2) A licensee shall dispose of a waste petroleum product in a manner and at a place intended for the safekeeping and dumping of such products pursuant to applicable law and good petroleum industry practices.

(3) A licensee shall appoint not less than one health, safety and environment officer to address and be

responsible on health, safety and environment matters and obligations related to the regulated activity.

Compensation for Loss Suffered

29. – (1) A licensee shall be obliged to compensate any person who has suffered any injury, loss of life or property or the environment as a result of the regulated activity.

(2) Any person who has suffered injury, loss of life or property or environment as a result of a regulated activity shall first lodge a complaint with a licencee whose regulated activity has caused such loss with a view to reaching an amicable settlement.

(3) In the event no settlement is reached under sub-rule (2), the person who has suffered injury or loss may refer the matter to the Authority for decision and the Authority shall deal with such matter as if it is a complaint lodged pursuant to the provisions of the EWURA Act.

(4) For the purpose of this rule, a person includes an administrator, executor or executrix of the estate of a deceased person.

Maintenance of Records, Provision and Disclosure of Information

30. - (1) A licensee shall at all times:

(a) keep complete and accurate records and data related to its regulated activity; and
(b) in accordance with the Authority's requirements and pursuant to its directions, promptly provide to the Authority documents, records or information related to its regulated activity.

(2) Any person who refuses to furnish information or statement as required under sub-rule (1) (b) of this rule

or furnishes false information or statement to the Authority shall be liable on conviction to a fine of five million shillings.

(3) Any person who refuses to furnish information or statement as required under sub-rule (1) (b) of this rule or furnishes false information or statement to the Authority for the second time shall be liable to pay a fine of ten million shillings and shall have its licence suspended for a period of twelve months.

(4) Any person who refuses to furnish information or statement as required under sub-rule(1)(b) of this rule or furnishes false information or statement to the Authority for the third time shall have it's licence revoked.

(5) Any person whose licence has been revoked pursuant to the provisions of sub-rule (3) shall not be eligible for issuance of a licence for a period of twelve months from the date of revocation.

Confidential Information

31. - (1) Any information received by the Authority from a licensee pursuant to these rules and applicable law shall be presumed not to be confidential.

(2) A licensee shall not be entitled to withhold information from the Authority on the ground that it is confidential.

(3) A licensee may request the Authority not to circulate specific data or information that it has provided to the Authority, provided, that only the Authority shall determine that such information is confidential.

(4) The Authority shall limit or prohibit the publication of any information to the public in the

event it makes a determination that such information is confidential.

PART V
PROCEDURES FOR OFFLOADING AND LOADING OPERATIONS

Discharge of Petroleum Products

32. (1) A licensee, Agency, marine vessel master, supplier, independent surveyor and an OMC conducting a regulated activity shall ensure that:

(a) there is safe receipt and discharge of petroleum or a petroleum product;
(b) the quality of petroleum or a petroleum product is maintained as per TBS specification;
(c) there is proper accounting of quantities received or discharged from marine vessel and quantities received or discharged from the shore tank; and
(d) any other procedure as provided for by applicable law is complied to.

(2) Where under the provisions of these Rules there is a dispute between parties as to test results on:
(e) quality, TBS shall have the final decision; and
(f) quantity, WMA shall have the final decision.

Obligation to Submit Berthing Schedule

33. Agency shall ensure that:
(a) it submits a berthing schedule to the Authority on a monthly basis;
(b) the berthing of the marine vessels at the facility is as per the berthing schedule that has

Power to Change the Berthing Schedule

been submitted by the licensee to the Authority under sub - rule (a).

Penalty for Interruption of a Berthing Schedule

34. The Agency in consultation with the Authority may, if it deems appropriate, change the berthing schedule submitted in rule 33(a).

Nomination of a Petroleum Independent Surveyor

35. Any person who interrupts the berthing schedule as submitted to the Authority, without prior notification to the Authority, commits an offence and shall be liable, on conviction, to a fine of ten million shillings or to imprisonment for a term not exceeding two years or both.

Petroleum Independent Surveyor Not to Represent More than One Party

36. - (1) During marine loading and offloading operations the Agency, supplier and receiver shall each nominate a separate petroleum independent surveyor to represent them.

Petroleum Independent Surveyor to be Registered by the Authority

(2) The petroleum independent surveyor appointed under sub - rule (1) shall supervise and record all the proceedings in respect of marine loading and offloading operations.

(3) The Authority may appoint a petroleum independent surveyor to represent it during loading and offloading operations.

37. Subject to the provisions of rule 36(1), an independent surveyor nominated shall not represent more than one party.

38. (1) A petroleum independent surveyor shall, pursuant to procedures prescribed by the Authority, be required to apply and be registered by the Authority, in order to undertake activities in connection with marine loading and offloading operations.

(2) The Authority shall issue a certificate of registration to such registered petroleum independent surveyor registered under rule 38(1).

(3) No person shall be registered as a petroleum independent surveyor unless their application meets the necessary technical requirements which include:

(a) submission of proof of Certification or Accreditation by the International certification Organizations;

(b) submission of a TIN Certificate;

(c) Weight and Measures Authority certificate or permit;

(d) proof of personnel qualifications from recognized institutions in petroleum cargo marine survey;

(e) certified copies of company registration documents;

(f) possession of adequate equipment for marine surveying for petroleum cargo;

(g) accreditation by the International certification organizations. This accreditation shall include but not limited to IFIA, ISO9001 and ISO 17020 and 1725;

(h) Possession of a laboratory in Tanzania capable of performing every relevant test as specified by TBS; submission of a list of its staff;

(i) submission of CV's of key staff;

(j) submission of Standard Operating Procedures (SOPs); and

(k) submission of proposed fee structure for the Authority's approval.

Obligations of a Petroleum Independent Surveyor

39. A petroleum independent surveyor shall have the following obligations:

(a) to verify the quantity of petroleum or a petroleum product in the marine vessel and shore tank before and after loading and offloading operations;

(b) ensure that prior to commencement of loading and offloading operations the hoses of the facility are correctly connected and all necessary marine vessel and onshore valves and shore tanks have been aligned accordingly;

(c) report for both vessels the bill of lading quantities, arrival quantities and outturn quantities and compare them to establish ship to shore losses and gains at KOJ, SBM and any other entry point;

Obligations of an OMC

(d) establish outturn quantities receipts of the refined petroleum products received into oil terminals of oil marketing companies and compare them with the arrival quantity and report any loss or gain or unusual loss or gain that occurs with possible causes and remedial measures taken to prevent re-occurrence of such loss or gain;

(e) maintain a comprehensive and accurate time log throughout the petroleum products discharge operation from marine vessels, highlighting any unusual delays and factors contributing to such delays;

Offences

(f) write a report of findings after discharge operations are completed, indicating any surplus or deficit of receipt against the bill of lading quantity and indicate possible reasons for the difference;

Compensation

(g) monitor and report on a daily basis the vessels that are outer anchorage and those occupying KOJ and SBM and expected vessels including their ETA,ETB and ETC;

(h) report the vessels discharging performance and any possible cause of the poor performance if any;

(i) report the certificate of quantity for each vessel to include but not limited to the followings, arrival quantity in Metric Tons in Air, USSBBL at 60 degrees farenheight, volume in liter at 20 degrees centigrade and density at 20 degrees centigrade;

(j) report the vessel performance including the applicable pressure during the discharge and discharging rate whether it has met the standards set by the Tanzania Ports Authority or not; and

(k) Immediately report to the Authority or the Agency incase of any abnormal incident.

40. An OMC shall:

(a) ensure that it provides access to an independent surveyor to carry out its obligations;

(b) not load products from the receiving tanks when receiving or discharging from the vessel;

(c) ensure that the valve between the receiving tank and any other interconnected tanks are closed during loading and offloading operations;

(d) only receive products on tanks that are calibrated by the certification Authority;

(e) ensure that it installs electronic volume monitoring devices on receiving tanks

(f) ensure that it install electronic devices to monitor the pipeline valves;.

41. Any person who contravenes the provisions of this Part commits an offence and upon conviction shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding two years or to both.

42. Without prejudice to rule 41 and the power of the

Authority to impose any other type of penalty, any person who contravenes the provisions of this part may be ordered to:

(g) pay demurrage resulting from non-compliance of these rules and any cascading effects as shall be calculated by the Agency;

(h) compensate any person for damages caused by such contravention; and

(i) pay compensation in respect of any damage resulting from such correction or disposal.

PART VI
FINANCIAL PROVISIONS

Setting and Approval of Tariffs

43. - (1) Upon application by a licensee, the Authority shall set the tariffs to be charged by a licensee in the operation of a facility.

(2) A tariff charged in terms of sub- rule (1):

(a) shall be:

(i) set out in a tariff order;

(ii) based on a systematic methodology applicable on a consistent and comparable basis;

(iii) fair;

(iv) non - discriminatory;

(v) simple and transparent;

(vi) predictable and stable; and

(vii) such as to promote access to affordable petroleum products;

(b) effective from the date set out in the tariff order;

(c) reviewed by the Authority within the period set out in the Tariff Order; and

(d) may be adjusted by the Authority on review.

(3)The Authority shall monitor the implementation of tariffs and take appropriate action when necessary to ensure that they are applied in a non-discriminatory manner and a licensee must provide the information required by the Authority in this regard.

(4) A licensee may request the Authority to review its tariff from time to time and may submit an application to the Authority in this regard.

(5) A licensee shall not charge a tariff for the regulated activity other than as set or approved by the Authority.

(6) Any person who contravenes the provisions of sub-rule (5) of this rule commits an offence and shall be liable upon conviction, to a fine of one hundred million shillings or imprisonment for a term not exceeding two years or to both.

PART VII
ENVIRONMENTAL PROTECTION

Compliance with Environmental Laws and Standards

44. - (1) A licensee shall comply with the requirements of all applicable environmental laws and standards related to a facility.

(2) Subject to applicable law a licensee shall:

(a) carry out an environmental impact assessment before establishing a facility, or making any major improvement to an existing facility;

(b) take all necessary preventive measures to avoid pollution resulting from its regulated activity;

(c) observe strict environmental, health, and industrial safety standards as required by applicable law; and

(d) perform an environmental audit related to the regulated activity in accordance with applicable law.

(3) For the purpose of sub-rule (2) (a) the term "major improvement" means an improvement that aims at expanding the size of the facility.

Sanctions for Violation of Environmental Laws

45. In the event the Authority determines that a licensee has violated these rules or any applicable law on matters related to protection of the environment it shall take appropriate actions pursuant to provisions of the Environment Management Act and other applicable laws.

PART VIII
TECHNICAL PROVISIONS

Compliance with Specifications and Standards

46. - (1) A licensee shall comply with specifications and standards pertaining to the facility which is consistent with these rules and applicable law.

(2) A licensee shall not deviate from any approved specification without prior approval of the Authority, and the Authority shall not grant such an approval unless it is satisfied that such deviation is for public interest and will not negatively affect public safety and the environment.

Preparation of an Emergency Preparedness Plan

47. A licensee shall establish an emergency preparedness plan to be employed in the event of an emergency at a facility that shall:

(a) include a suitable and adequate emergency response team, spill and fire-fighting plan that comprises:

(i) the locations and types of all spill and fire-fighting equipment;
(ii) first aid and rescue equipment; and
(iii) an action plan that identifies, inter alia, assembly points and the tasks of all employees;

(b) include provisions for the training of employees to deal with a fire, spill and any emergency situation, the records of which shall be preserved;
(c) be provided to employees employed in or on the relevant premises; and
(d) be made available to the Authority on request.

Fire Precaution

48. - (1) A licensee shall:

(a) ensure that any building, right of way, structure or plant used in connection with a facility is designed, constructed, equipped and maintained:
   (iv) in such a way as to prevent fire and explosion; and
   (v) so as to minimize the harmful effects of fires or explosions if they occur;
(b) ensure that personnel involved in the regulated activity exercise caution in respect of anything that may cause fire or an explosion, and that such personnel follow applicable law on matters related to fire and explosions; and
(c) ensure that there are adequate clear and

visible safety warning signs at the facility.

(2) A licensee shall make reasonable efforts to ensure that no person throws, leaves or creates any open or uncontrolled naked light, spark or flame or any burning or smouldering material on a facility should be done safely.

(3) A licensee shall take adequate precaution to prevent the outbreak of spill and fire at a facility.

(4) A licensee shall provide adequate fire extinguishing equipment and maintain such equipment in good working condition in accordance with these rules, applicable law and standards and pursuant to directions issued by the Authority.

(5) A licensee shall:

(a) position the equipment described in sub-rule (4) of this rule in accessible places at the facility; and
(b) in any event, at least once a year, service the equipment described in sub-rule (4) of this rule pursuant to applicable law.

(6) A licensee shall establish a fire emergency plan to be employed in the event of a fire at a facility that shall:

(a) include a suitable and adequate fire-fighting plan that comprises:

(i) the locations and types of all fire-fighting equipment; and
(ii) an action plan that identifies,

inter alia, assembly points and the tasks of all employees;

(b) include provisions for the training of employees to deal with a fire emergency situation, the records of which shall be preserved;

(c) be provided to employees employed in or on the relevant premises; and

(d) be made available to the Authority on request.

Control of a Petroleum Product Spill

49. - (1) A licensee shall establish a spill containment plan to be employed in the event of spillage at a facility that shall:

(a) include a suitable and adequate spill containment equipment and chemicals; and

(b) include provisions for the training of employees to deal with a spillage, the records of which shall be preserved.

(2) A licensee shall, in the event of a petroleum product spill:

(a) as soon as practicable and in any event not more than twenty four (24) hours after the occurrence of such spill, inform the Authority about such spill; and

(b) take all necessary steps pursuant to good petroleum industry practices or otherwise as may be necessary to clean up such spill.

(3) In the event a licensee fails to comply with sub-rule (2) (b) of this rule within the period of time established by the Authority, the Authority may, by written notice, order such licensee to take such steps

as the Authority may require in order to clean up a petroleum product spill at its own cost.

(4) Any licensee who fails to comply with an order of the Authority issued pursuant to sub-rule (3) of this rule commits an offence and shall on conviction, be liable to a fine of five million shillings or to imprisonment for a term not exceeding two years or to both.

(5) Without prejudice to the provisions of sub-rules (2), (3) and (4), any person who is affected by any spill of a petroleum product and seeks redress, shall first lodge a complaint with a licensee whose licence has caused such spill with a view to reaching an amicable settlement.

(6) In the event no settlement is reached under sub-rule (5), the person who is affected by the spill may lodge a complaint to the Authority for compensation from the licensee who is responsible for the spill, and the Authority shall deal with such complaint in accordance with the provisions of Part VI of the EWURA Act.

Inspection of a Facility

50. - (1) The Authority may inspect a facility pursuant to these rules and applicable law.

(2) The Authority may access and inspect a facility, equipment and documents, and an operator of the facility shall render such assistance to an inspector as may be required in the course of such inspection.

(3) Notwithstanding the generality of sub-rule (2) of this rule an inspector shall have the right and obligation to enter upon any facility for the purpose of conducting inspection.

(4) During inspection an inspector may:

(a) take samples of any substance or articles at facility;
(b) make copies or take extracts from any

book, accounts or records kept on the facility;

(c) inspect machinery, equipment, appliances, meters, fittings and apparatus; and

(d) inspect any vehicle that is found at the facility.

Prohibited Acts Against Inspectors

51. - (1) A licensee shall not:

(a) hinder or obstruct the Authority in the exercise of any of the powers conferred upon it under these rules;

(b) use abusive, threatening or insulting language to an employee of the Authority;

(c) deny or fail to comply with a requirement, direction or notice of the Authority; and

(d) when required by the Authority to answer a question, deny or fail to answer such question to the best of his knowledge, information and belief.

(2) Any person who contravenes the provision of sub-rule (1) of this rule commits an offence and shall be liable, on conviction, to a fine of ten million shillings or to imprisonment for a term not exceeding two years or both.

Decommissioning Procedure

52. – (1) A licencee shall, subject to the provisions of this rule, decommission a facility:

(a) after receipt of a written approval for decommissioning from the Authority;

(b) by an order of the Authority where it is satisfied that such facility has been abandoned by its licensee for a period of not less than twelve months; or

(c) by an order of the Authority that the same be decommissioned after the Authority is satisfied that the continued operation of such facility poses a danger to lives and property.

(2) A licencee seeking to decommission a facility shall notify the Authority not less than thirty days prior to such decommissioning in order to enable the Authority make necessary inspections and to issue the necessary approvals.

(3) Notwithstanding any provision of these rules, a licensee shall pay all costs associated with the decommissioning of a facility, whether such decommissioning has been done following the request by the licensee or by order of the Authority.

Site Restoration

53. – (1) The Authority shall, after confirming that the area where a facility has been constructed has been restored to its original state by a licensee, issue a certificate of compliance to such licensee.

(2) For the purposes of sub-rule (1) of this rule "restore" means to:

(a) return the area in which a licensed facility is located to its original and natural state as it was prior to the installation of such facility; or
(b) render the area in which a licensed facility is located, or part thereof, compatible with its intended after-use, including:

(i) removing buildings, structures, plant and debris;
(ii) establishing compatible contours and drainage;
(iii) replacing top soil, re-vegetation, slope stabilization; and
(iv) in filling excavations.

(3) The Authority shall, before issuing a certificate of compliance under sub-rule (1), consult the Council.

PART IX
PENALTIES AND REMEDIAL MEASURES

Penalties and Remedial Measures

54. The Authority may, without prejudice to the penalties prescribed in these rules and applicable law where it determines that a licensee is in violation of these rules or applicable law:

(a) issue a warning;
(b) issue a Compliance Order restraining a licensee from continuing violation of these rules, licence conditions, the Act or applicable law;
(c) restrict the conduct of a regulated activity;
(d) order a licensee to remedy any situation as a result of such violation;
(e) issue a partial suspension of a licence for such period the Authority may determine;
(f) suspend a licence for such period the Authority may determine; or
(g) revoke a licence.

PART X GENERAL PROVISIONS

Power to enter and Close a Facility

55. – (1) Notwithstanding any provision in these rules an inspector shall, with an order in writing, have the right and obligation to enter upon any facility and close it down where he determines that a regulated activity is being conducted in contravention of these rules.

(2) An inspector may while discharging his obligation under sub-rule (1) of this rule seek the assistance of law enforcement institutions including the police and such institution shall provide the requested assistance to the inspector.

Transitional Provision

56. Any person who conducts marine loading and offloading operations whether licensed or not shall within twelve months after coming into force of these rules, adjust its operations and upgrade its facilities in order to comply with the provisions of these rules.

General Penalty

57. Any person who commits an offence for which no specific penalty is prescribed in these rules shall be liable on conviction to a fine of five million shillings or to imprisonment for a term not exceeding two years or both.

Penalty for a Second or Subsequent Conviction

58. Any person who is convicted of a second or subsequent conviction of any offence under these rules and the Act shall without prejudice to the penalties prescribed in rule 57, be liable to a fine of not less than ten million shillings or to imprisonment for a term of not less than three years or to both.

Authority to Supplement Procedures as Needed

59. Where procedures are not provided for in these rules, the Authority may do whatever is necessary and permitted by law to enable it to effectively and completely adjudicate on any matter before it.

Appeal
Cap. 285

60. Any person who is aggrieved by a decision made by the Authority under any of these rules may lodge an appeal to the Tribunal pursuant to the provisions of the Fair Competition Act.

Dar es Salaam | FELIX NGAMLAGOSI
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