

# **EWURA (PETROLEUM TRANSPORTATION) RULES, 2008**

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# EWURA (PETROLEUM PRODUCTS TRANSPORTATION) RULES, 2008

## CHAPTER ONE GENERAL PROVISIONS

### 1. Citation

These Rules may be cited as the EWURA (Petroleum Products Transportation) Rules, 2008.

### 2. Application

These Rules shall apply to any person conducting petroleum transportation activities by road, railway or barges, but shall not apply to petroleum transportation by pipeline.

### 3. Interpretation

(1) In these Rules, unless the context otherwise requires, the following terms shall have the following meanings:

“**Act**” means the Energy and Water Utilities Regulatory Authority Act, Cap 414;

“**Applicable Law**” means all principal laws, treaties, proclamations, regulations, rules and by-laws that are customarily treated in Tanzania as having legally binding force;

“**Approved Specification**” means any specification or standard applied by the Authority on a Petroleum Product and approved pursuant to the Standards Act (Cap. 130), or any other standards that are widely used for good Petroleum industry practices.

“**Assigned Delivery Route**” means the route in the prescribed form as set out in Schedule 1 which the Licensed Facility is obligated to follow in order to make its assigned delivery from the Consignor to the Consignee;

“**Authority**” means the Energy and Water Utilities Regulatory Authority (“EWURA”) established under Section 4 of the Energy and Water Utilities Regulatory Authority Act, Cap 414;

“**Batch Quality Certificate**” means a certificate of quality for a Petroleum Product issued by laboratory approved by the Authority;

“**Calibrating Authority**” means the Weights and Measures Agency established under the Weights and Measures Act (Cap. Xxx );

“**Consignee**” means any person who has applied or who has a contract to receive a Petroleum Product from the Consignor;

**“Consignor”** means any person who has supplied or who is under a contract to supply a Petroleum Product to the Consignee;

**“Customer Service Charter”** means the document prepared by a Transporter and a holder of an Authorisation and duly approved by the Authority detailing on all matters related to delivery of the Licensed Activity, including service delivery and complaint settlement procedure;

**“Customer”** means a person that buys the Licensed Activity;

**“Incident”** means:

- (a) an event that involves the leakage of a petroleum product from a storage facility or a spill of a petroleum product as result of dispensing or offloading activities;
- (b) death or personal injury occurring as a consequence that is related to the Licensed Activity;
- (c) a fire or an event incidental thereto that results from an action that is related to a Licensed Activity; and
- (d) any other significant event that may adversely effect the conduct of a licensed Activity;

**“Initial Results”** means immediate results from the samples of a Petroleum Product taken from the Licensed Facility by the Authority pursuant to the Rules it shall establish with a view to establish the quality of such Petroleum Product;

**“Inspector”** means any person appointed or authorised by the Authority to act as such.

**“Licence”** means a Licence issued by the Authority to any person to provide a Licensed Activity;

**“Licensee”** means the holder of a Licence;

**“Licensed Activity”** means transportation of a Petroleum Product and related activities from a Consignor to a Consignee but shall not include transportation of a Petroleum Product by pipeline;

**“Licensed Facility”** means a total fleet of vehicles, including trucks, railway wagons and barges a Transporter uses to provide a Licensed Activity;

**“Permit”** means an authorisation issued by an institution approved by the Authority to an individual driver to transport a Petroleum Product;

**“Petroleum Product”** means motor spirits premium (petrol), gasoil, (diesel) kerosene, Jet A1, aviation gas (avgas), fuel oils, lubricating oils, industrial diesel oils and bitumen but does not include Liquefied Petroleum Gas (LPG) and natural gas;

**“Petroleum Product Spill”** means the discharge of a Petroleum Product onto or into any land or water, or any structure or thing;

**“Service Standards”**

**“Quality Standards”** means the standards and specifications governing the quality of petroleum products delivered as established by TBS;

**“Storage Facility”** means any facility of Approved Specification used to store a Petroleum Product at a Petroleum terminal or depot, retail outlet or consumer installation facility;

**“Tanzania”** means the mainland of the United Republic of Tanzania; and

**“Transporter”** means any person who is transporting or who is under a contract to transport a Petroleum Product from a Consignor to a Consignee.

(2) In these Rules, unless the context otherwise requires:

- (a) headings are for convenience only and shall not be considered in the interpretation of these Rules;
- (b) the singular includes the plural and vice versa;
- (c) the terms "include" and "including" mean without limitation;
- (d) the term “person” includes a natural person or any company, partnership, trust, association, corporation or other body corporate and any governmental agency;
- (e) a period of time:
  - (i) which dates from a given day or the day of an act or event shall be calculated exclusive of that day;
  - (ii) which commences on a given day or the day of an act or event shall be calculated inclusive of that day.

## **CHAPTER TWO** **JURISDICTION AND POWERS OF THE AUTHORITY**

### **4. Jurisdiction of the Authority**

The Authority shall regulate the activities of any person conducting a Licensed Activity and shall have full jurisdiction to determine any matter:

- (a) where it appears to the Authority that any person:
  - (i) has failed to do any act, matter or thing required to be done under these Rules, or any approval, Order or direction made by the Authority; or

- (ii) that any person has done or is doing something contrary to or in violation of Applicable Law; or
- (b) where it appears to the Authority that the circumstances require the Authority to make any Order or give any direction or approval that it is authorized to make or give.

## 5. Powers of the Authority

The Authority may:

- (a) inquire into or investigate any aspect of a Licensed Activity;
- (b) make findings about the cause of an Incident or factors contributing to it;
- (c) make recommendations to appropriate authorities in respect of preventing future Incidents; or
- (d) render any decision or Order pursuant to Applicable Law:
  - (i) requiring any person to do any act, thing that such person is or may be required to do under these Rules, a Licence, or any approval, Order or direction made or given by the Authority; and
  - (ii) forbidding the doing or continuing of doing of any act or thing that is contrary to these Rules, a Licence, approval, Order or direction of the Authority.

## CHAPTER THREE LICENSING

## 6. Applications for a Licence

- (1) No person shall provide Licensed Activity without a Licence.
- (2) The following persons may apply to the Authority for a Licence:
  - (a) a commercial company or a sole trader currently providing Licensed Activity; or
  - (b) a person with the means, equipment, facilities and appliances to transport Petroleum Products and that complies with technical and other prescribed conditions established by the Authority.
- (3) An application for a License shall be in the form established by the Authority and contain the following information:

- (a) the applicant company's name and registered location;
  - (b) evidence that the applicant satisfies the conditions described in Rule 6 (2);
  - (c) the applicant's a plan to provide Licensed Activity that includes:
    - (i) a detailed list of the Licensed Facility and equipment to be employed in the Licensed Activity;
    - (ii) environmental protection measures to be employed to prevent harmful environmental impacts resulting from the Licensed Activity;
  - (d) such other information that the Authority may require.
- (4) Upon receipt of an application pursuant to Rule 6 (3) the Authority may:
- (a) grant a Licence; or
  - (b) refuse to grant a Licence;
- provided that in the event that the Authority refuses to grant a Licence, it shall notify the applicant in writing of such refusal and the reasons thereof.
- (5) Nothing in this Chapter shall relieve the Transporter from its obligations under Applicable Law.

### **CHAPTER THREE** **TECHNICAL CONDITIONS**

#### **7. General Obligations**

A Transporter shall:

- (a) only offload a Petroleum Product at a Consignee's Licensed Facility;
- (b) ensure that Licensed Facility follows the Assigned Delivery Route;
- (c) display the original Licence or certified true copy thereof duly certified by the Authority in or on a conspicuous place at its office premises;
- (d) comply with:
  - (i) any Applicable Law;
  - (ii) these Rules;
  - (ii) Orders and directions of the Authority; and

- (iii) applicable codes and standards on safety, hazardous substances, security, health and environment;
- (e) establish and maintain records of its Licensed Activities pursuant to the Applicable Law and orders and directions of the Authority;
- (f) as soon as practicable, but in any event not later than twenty-four (24) hours after the fact, notify the Authority of the occurrence of an Incident within the Licensed Facility; such notification comprising the steps taken or proposed to be taken by a Transporter to remedy such Incident or to eliminate or minimize any danger arising from it;
- (g) pursuant to these Rules and Applicable Law, provide the Authority with full access to its records, documents, sites and assets;
- (h) ensure the safe disposal of any Petroleum Product and waste oil;
- (i) procure and maintain in force a valid insurance cover in respect of all liabilities that may arise from the conduct of its Licensed Activity;
- (j) not keep fireworks or any other instrumentalities or products in a Licensed Facility that might pose a risk of fire;
- (k) prior to effecting such change, inform the Authority in writing of any major changes to be effected to a Licensed Facility that would have an impact in the operation of the Licensed Activity;
- (l) ensure that a Licensed Facility's compartments, meters and related equipment are calibrated by the Calibrating Authority for correct measurements and in good working order in accordance with good Petroleum practices and good petroleum industry practices;
- (m) pursuant to the written directions of the Authority, monitor, record and reconcile all stocks of a Petroleum Product delivered to, stored in and dispensed from the Licensed Facility;
- (n) retain for not less than twelve (12) months and make available to an Inspector or to the Authority on demand, records of its Licensed Activities;
- (o) promptly notify the Authority of any apparent loss or gain of Petroleum Products that are outside such Transporter's normal operating patterns;
- (p) maintain and make available to an Inspector or the Authority on demand documentary evidence demonstrating that all electrical equipment and installations in premises relevant to the delivery, storage and dispensing of Petroleum Products, and to those areas of the premises where flammable gases or vapours which are capable of producing explosive or ignitable mixtures may occur, comply with Approved Specifications and installation procedures in accordance with existing relevant codes or legislation;
- (q) display in a conspicuous place at a Licensed Facility the Licence or a true copy thereof, duly certified by the Authority;

- (r) print a Licence number on all accounting documents employed in its Licensed Activity, including invoices, delivery notes and receipts;
- (s) conduct its Licensed Activity in such a way that:
  - (i) all Customers are treated fairly and equally; and
  - (ii) comparable Licensed Activity are provided to all Customers;
- (t) not engage in any activities that disrupt or interfere with competition; and
- (u) as soon as practicable, but in any event not later than thirty (30) days after it becomes aware of the fact, notify the Authority:
  - (i) if it is unable to conduct its Licensed Activity;
  - (ii) if the conduct of its Licensed Activity would or might lead to the breach of any of these Rules or materially affect Licensed Activity to a Customer; or
  - (iii) of any material change in circumstance that adversely affects or may adversely affect the business, operations or assets of a Transporter .

## **8. Specifications and Standards**

- (1) A Transporter shall, in carrying out its Licensed Activity comply with Approved Specification and Applicable Law.
- (2) A Transporter shall not transport a Petroleum Product that does not conform to the Approved Standards.
- (3) Notwithstanding the provisions of Paragraph (1), the Authority may, by notice served on a Transporter or the holder of an Authorisation or by notice in the *Gazette*, apply any specification or standard of the Tanzania Bureau of Standards or any other equivalent specification or standard in the English language of any other board, council or other body established by any Applicable Law, whether in Tanzania or elsewhere, which specification or standard has been officially published for general information in any such country, and which specification or standard pertains to the loading handling, offloading, composition and delivery of a Petroleum Product which is not inconsistent with the Applicable Law.

**9. Internal Monitoring Systems**

- (1) A Transporter shall, not later than six (6) months after the entry into force of these Rules, install and maintain an internal monitoring system for tracking movement of its Licensed Facility.
- (2) The system described in Rule 9 (1) shall be capable of storing information related to Licensed Facility movement in a permanent and printable form.
- (3) A Transporter shall maintain the records available for inspection by the Authority for not less than one (1) year.
- (4) In the event that a consignment of Petroleum Products is found to be adulterated or out of specification at the offloading point and a Transporter cannot demonstrate that the Licensed Facility possesses a system described in Rule 9 (1) it shall be presumed that the Transporter is responsible for such adulterated Petroleum Product.
- (5) Upon request, a Transporter shall deliver the track records of the Licensed Facility to the Authority.

**10. Prohibition on Adulteration of a Petroleum Product**

- (1) A Transporter shall not transport a Petroleum Product or a mixture or blend of a Petroleum Product in a form that does not comply with the Approved Specifications.
- (2) A Transporter transporting adulterated Petroleum Products shall be liable to penalties set out in Schedule 1.
- (3) Nothing in these Rules shall be construed to limit or affect in any way the Authority's power to bring enforcement actions or take any other measure under the Act or other Applicable Law.

**11. Inspections**

- (1) The Authority may, at any time, inspect the Licensed Facility and any documents related to the conduct of its Licensed Activity to ensure compliance with Applicable Law.
- (2) A Transporter shall render all necessary assistance to facilitate any inspection of its Licensed Activity described in Rule 11 (1).
- (3) The Authority may:
  - (a) take samples of any substance or equipment or articles

- related to loading, handling, offloading or delivery of a Petroleum Product;
  - (b) make copies or take extracts from any such book, accounts or records kept on the Licensed Facility; and
  - (c) inspect machinery, equipment, appliances, meters, fittings and apparatus located at the Licensed Facility.
- (4) During inspection, the Authority shall have the power to break any seal for the purpose of taking a sample, provided, however, that it shall thereafter fix the Authority's seal.
- (5) The Authority may impound any Licensed Facility where it determines:
- (a) that the Initial Results from Licensed Facility are non-conforming to Approved Specification;
  - (b) that continued operation of the Licensed Facility poses a risk to health, public safety, or the environment; or
  - (c) where the Licensed Facility has deviated from its Assigned Delivery Route.
- (6) During an inspection the Authority may seek the assistance of law enforcement authorities, including the police force.
- (7) During an Inspection the Transporter or its authorised representative in charge of the Licensed Facility may be required to:
- (a) produce the Assigned Delivery Route;
  - (b) Batch Quality Certificate;
  - (c) delivery note and invoices;
  - (d) a valid Permit;
- (8) The Authority may initiate an investigation of the Licensed Activity of a Transporter or a holder of an Authorisation:
- (a) upon receipt of a complaint by any third party, including a Customer; or
  - (b) on its own motion.
- (9) The Authority may investigate and require a Transporter to comply with:
- (a) the relevant quality, safety and reliability design standards applicable to the Licensed Activity; and
  - (b) the applicable environmental law.

- (10) Upon investigation, the Authority concludes that a Transporter has not complied with any condition of its Licence or Authorisation, the Authority may:
  - (a) limit or prohibit such Transporter's involvement in any activity which compromise or may compromise the proper conduct of the Licensed Activity; or
  - (b) take such other actions as it deem appropriate to protect the interests of Customers and the public.

## **12. Specific Obligations**

- (1) A Transporter shall not engage in any activities that compromise the proper implementation of the Licensed Activity or that may impede the Licensed Activity of any other Licensee.
- (2) A Transporter shall conduct its Licensed Activity pursuant to the technical requirements placed upon its means of transportation under applicable law.
- (3) A Transporter or its agents shall only offload a Petroleum Product at the Storage Facility of the Consignee located at:
  - (a) a Petroleum depot;
  - (b) a Retail Outlet;
  - (c) a Consumer Installation Facility; or
  - (d) any other place duly authorised by the Authority.
- (4) A Transporter shall ensure that each of its drivers or persons in charge of the Licensed Facility possesses a valid HazMat Transport Driver Permit ("HTDP").
- (5) In loading, handling, offloading, delivery, using or disposing of any Petroleum Product a Transporter shall take such precautions and exercise such care as is reasonable in 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.
- (6) A Transporter shall conduct periodic technical inspections and tests on Facilities pursuant to:
  - (a) applicable technical safety and environmental standards; and
  - (b) Applicable law.

- (7) A Transporter shall, at all times keep and maintain documentation identifying and confirming its right to provide the Service, including without limitation:
  - (a) a certificates of origin of a Petroleum Product;
  - (b) invoices;
  - (c) a bills of lading; and
  - (d) for local delivery a delivery note.
- (8) Upon request, a Transporter shall present the documentation described in Rule 12 (4) to any relevant authority.
- (9) A Transporter shall dispose of, any used and waste Petroleum Products in a manner and at a place intended for the safekeeping and dumping of such waster pursuant to:
  - (a) Applicable Law; and
  - (b) good Petroleum Industry Practices;
- (10) A Transporter shall ensure the facilities used in connection with a Petroleum Product are erected, executed and maintained in such a manner as to:
  - (a) avoid endangering the safety or health of any person, or the safety of any person's property; and
  - (b) prevent the risk of significant environmental harm.
- (11) A Transporter shall at all times ensure that measuring instruments used in the conduct of the Licensed Activity are correct and comply with the Applicable Law.
- (12) In the event of national emergency or national necessity and pursuant to Applicable Law and the directions of the Authority, a Transporter shall, in consideration of reasonable and appropriate compensation, provide Licensed Activity as may be required by relevant military or police authorities, including transportation.
- (13) A Transporter shall submit to the Authority as soon as practically possible but not more than forty-eight (48) hours a report on an accident or incident occurring in the implementation of the Licensed Activity.

### 13. Fire Precautions

- (1) A Transporter shall:
  - (a) ensure that the facilities used in connection with the transportation of a Petroleum Product are designed, constructed, equipped and maintained:
    - (i) so as to prevent fires and explosions; and
    - (ii) if any fire or explosion occurs, so as to minimize its harmful effects.
  - (b) take all necessary steps to ensure that personnel or employees involved in the loading, handling, offloading and delivery of a Petroleum Product exercise caution in respect of anything which may cause fires or explosions and that such persons comply with these Rules and other Applicable Law regarding fires and explosions; and
  - (c) suitably sign post any place in the Facility, where a Petroleum Product is loaded, handled, offloaded or delivered.
- (2) A Transporter shall make a reasonable effort to ensure that no person throws leaves or creates any open or naked lights, sparks or flames or any burning or smouldering material at the Facility.
- (3) A Transporter shall ensure that:
  - (a) an engine is switched off while a Petroleum Product is being dispensed into the tank of a vehicle or the Storage Facility; and
  - (b) no person receives or make calls from a cellular telephone or any other electronic communication apparatus at the Facility.
- (4) Pursuant to rules established by the Authority, a Transporter shall provide adequate fire extinguishing equipment at the Facility and maintain such equipment in good working condition.
- (5) A Transporter shall position the equipment described in Rule 13 (4) in accessible places at the Licensed Facility where a Petroleum Product is loaded, handled, offloaded or delivered.
- (6) A Transporter shall test the equipment described in Rule 13 (4):
  - (a) pursuant to its specification and Applicable Law;
  - (b) but in any event not less than once a year.

#### **14. Petroleum Products Spills**

- (1) In the event of a Petroleum Product Spill, a Transporter shall:
  - (a) inform the Authority about such spill; and
  - (b) take all necessary steps pursuant to oil industry practices or otherwise as may be necessary to clean up such spill.
- (2) In event that a Transporter fails to comply with Rule 14 (1) (b) within the period of time established by the Authority, the Authority may, by written notice Order such Transporter or such holder to take such steps as the Authority may require in Order to clean up the Petroleum Products Spill.
- (3) In the event that a Transporter fails to comply with the an Order of the Authority issued pursuant to Paragraph (2), the Authority may take such steps as it deems necessary to clean up the Petroleum Products Spill and the costs related to such steps shall be recovered by the Authority from the Licensee.

#### **15. Certain acts with regard to Inspectors Prohibited**

- (1) A Transporter shall not:
  - (a) hinder or obstruct an Inspector in the exercise of any of the powers conferred by these Terms and Conditions;
  - (b) use abusive, threatening or insulting language to an Inspector;
  - (c) refuse or fail to comply with a requirement, direction or notice of an Inspector; and
  - (d) when required by an Inspector to answer a question, refuse or fail to answer such question to the best of the Licensee's knowledge, information and belief.
- (2) A Transporter that contravenes the provision of Rule 15 (1) commits an offence and shall, upon conviction, be liable to a fine not exceeding three million shillings (TS 3,000,000) or imprisonment for a term not exceeding three (3) years or both.

#### **16. Deceptive Trade Practices**

- (1) A Transporter shall not engage in any activity involving the Licensed Activity, in such a manner that they may deceive, tend to deceive or have the effect of deceiving the Customers, with respect to:
  - (a) the identity of a Transporter ;
  - (b) the type of a Petroleum Product;

- (c) the name or identity of a Licensee;
  - (d) the price of a Petroleum Product; and
  - (e) Petroleum Product's composition, grade, quantity.
- (2) A Transporter shall not keep, offer for sale or sell any Petroleum Product from any container, tank, pump or other distributing device other than those manufactured or distributed by the manufacturer or distributor indicated by the name, trademark, symbol, sign or other distinguishing mark or device appearing upon such tank, container, pump or other distributing device in which such products are sold, offered for sale or distributed.
- (3) A Transporter shall not use inaccurate measuring instruments in the conduct of Licensed Activity.
- (4) A Transporter that contravenes this Rule commits an offence and shall, upon conviction, be liable to a fine not less than three million (TZS 3,000,000) shillings or imprisonment for a term of not less than five (5) years or both.