

THE PETROLEUM ACT
CAP 392

THE PETROLEUM (RETAIL OPERATIONS) RULES, 2012

(Made under section 5 (3))

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THE PETROLEUM ACT
(CAP 392)

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(Made under section 5(3))

PART I
PRELIMINARY PROVISIONS

Citation	1. These rules may be cited as the Petroleum (Retail Operations) Rules, 2012.
Application	2. These rules shall regulate the activities related to petroleum retail business in Mainland Tanzania.
Interpretation	3. In these rules, unless the context otherwise requires:
Cap. 392	“Act” means the Petroleum Act;
	“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 petroleum retail business;
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;
	“bulk quantity” means a single lot of not less than five hundred metric tons of a petroleum product;
Cap. 54	“Class A residence permit” means a permit issued by the Immigration Department pursuant to the provisions of the Immigration Act;
	“Council” means the National Environment Management Council established

- Cap. 191 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;
- Cap. 414 “EWURA Act” means the Energy and Water Utilities Regulatory Authority Act;
- Act No. 14/2007 “fire safety certificate” means a certificate issued by the Fire and Rescue Authority pursuant to the provisions of the Fire and Rescue Forces Act;
- “Good Petroleum Industry Practices” means any action related to a petroleum product intended to preserve product quality and meeting 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 of the Authority or an agent of the Authority appointed by the Authority to perform the functions of inspection as required under the Act and applicable law;
- “licence” means an authorization issued by the Authority to operate a licensed facility;
- “licensed activity” means an activity necessary to operate a licensed facility and includes all activities in respect of such licensed facility and any activity reasonably required in connection with obtaining, handling, possession, storage and dispensing of a petroleum product to a consumer on retail basis;

“licensed facility” means a place constructed and meets specifications prescribed in TBS Standard TZS 1079: 2009 and TZS 1115: 2009 and include buildings, storage tanks and dispensing pumps in respect of which a licensed activity is carried out;

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

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

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

- (a) asphalts, bitumen, petroleum coke and other residual products;
- (b) bunkers or heavy residual fuel oils for combustion engines or industrial heat processes, such as burners for boilers or heating furnaces;
- (c) commercial gases which include methane, ethane, propane, butane and other similar petroleum gases, biogas or mixtures of these gases, whether in gaseous or liquefied state;
- (d) gasoil or automotive diesel, biodiesel, industrial marine diesels or synthetic diesel;
- (e) gasoline, a bio-naphtha or bioethanol product;
- (f) kerosene or other similar oils for illumination or combustion applications;
- (g) lubricating oil, base oil or refined and blended finished oil;
- (h) turbo fuels for jet propulsion engines; and
- (i) other products 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 a discharge of a petroleum product of not less than two hundred litres onto or into any land, water or any structure or thing;

“pump island” means an elevated part of a retail outlet where dispensing pumps are installed;

“retail outlet” means any place where a petroleum product is sold or offered for sale to a customer on a retail basis and include the buildings, storage tanks and dispensing pumps in respect of which a retailer is conducting retail sale;

“retail sale” means the sale or offer for sale of a petroleum product at a retail outlet;

“retailer” means the operator of a retail outlet;

“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 poses an imminent danger to lives and property;

“supervisor” means an 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 further use;

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;

“wholesaler” means any person who engages in the importation, storing or selling of a petroleum product in bulk quantity for the purpose of wholesale business; and

“wholesale business” means the importation, storing or selling of a petroleum product in bulk quantity and include transit trade in petroleum products.

PART II APPLICATION FOR A CONSTRUCTION APPROVAL

Application for
Construction
Approval

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

(2) Any person who wishes to construct a licensed facility shall lodge an application with the Authority by filling in the application form to be prescribed by the Authority which shall provide such information as:

- (a) the applicant’s name, telephone and fax number;
- (b) the proposed location and complete address of the proposed licensed facility;
- (c) proof of land ownership and right of use;
- (d) a list of facilities to be constructed;

- (e) an environmental impact assessment certificate;
- (f) a list of dispensers and storage tanks;
- (g) an engineering layout plan duly signed by a registered engineer which shall specify:
 - (i) the number of tanks and dispensing pumps;
 - (ii) the location and distances between building structures and facilities and equipment;
 - (iii) entry and exit;
 - (iv) perimeter wall and property boundaries; and
 - (v) location and identification of dispensing unit/s including hose reach zone; and
 - (vi) that the engineering, design and construction has been carried out in accordance with approved specifications; and
- (h) any other information as shall be required by the Authority.

Application to be Accompanied by a Fee

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

Grant of a Construction Approval

6. - (1) The Authority shall, upon receipt of an application described in sub-rule (2), proceed to evaluate such application and decide whether to grant or deny the application.

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

- (a) applicant's compliance with rule 4 (2);
- (b) applicant's compliance to land use laws; and
- (c) applicant's compliance to health, safety and environmental requirements.

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

(4) The applicant shall, after issuance of an approval, be notified to come and collect the approval.

(5) 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

7. A construction approval issued by the Authority in rule 6 shall remain in force for such period 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 effects.

Notice of Commencement

8. A retailer shall issue a notice to the Authority of the commencement of construction work not less than thirty days prior to the start of construction.

Suspension and Revocation of a Construction Approval

9. – (1) The Authority may, by notice in the *Government Gazette*, withdraw or suspend a construction approval if any of the terms and conditions thereof has not been complied with.

(2) Where the Authority intends to withdraw, suspend or amend a construction approval it shall, at least twenty-one days before the date of 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 do no longer exist.

Appeal

10. Any person who is aggrieved by the decision of the Authority under this Part may lodge an appeal to the Tribunal pursuant to the provisions of the Fair Competition Act.

PART III LICENSING PROCEDURES

Licensed Activity

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

(2) Any existing retailer conducting a licensed 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 the licensed activity.

(3) Any person who contravenes the provisions of sub-rule (1) or (2) commits an offence and shall be liable on conviction, to a fine of five 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, in the event it determines that any person has contravened the provisions of rule 11 (1) or 11 (2) enter upon any licensed facility and close it down.

Minimum Licensing Requirements

13. – (1) No person shall be issued with a licence unless his application meets the necessary minimum licensing requirements which are:

- (a) possession of relevant authorization to the ownership and use of the land for a retail business, which shall include building permit (for existing retailers) or fire safety certificate and any other authorization by relevant authority approving the development of a retail outlet; and
- (b) proof of possession of adequate and serviced fire extinguishing equipment including:
 - (i) sand bucket for each pump island;
 - (ii) at least two fire extinguishers of 9 kg ABE Powder Type located near the dispensers or at least one extinguisher per pump island; and
 - (iii) emergency shutoff switch.

(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) in the case of a non-Tanzanian applicant, a class A residence permit;
- (b) if the applicant is a corporate or unincorporated body, certified copies of its registration documents;
- (c) tax identification number certificate;
- (d) if an environmental assessment study has been conducted, a certified copy of the certificate;
- (e) list of facilities; and
- (f) copy of a business licence.

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 for publication of the notice 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 application compliance to minimum licensing requirements set out in rule 13;
- (b) objections or representations from the public sought pursuant to rule 16;
- (c) compliance to land use laws;
- (d) the applicant's record of compliance with the Act, these rules and other applicable laws;
- (e) the compliance of a retail outlet on matters related to;
 - (i) safety;
 - (ii) health;
 - (iii) security;
 - (iv) handling of hazardous substances; and
 - (v) environment;
- (f) any other matter relevant to the orderly conduct of retail business in 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 application 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 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 term stated in sub-rule (1) of this rule, 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 a licensed activity within six months after issuance of the licence.

Application for
Transfer of a
Licence

19. - (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 (6) 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

20. – (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, which shall be accompanied by a certificate for change in name issued by relevant authorities.

Change of
Shareholding
Structure

21. - (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.

Cap. 212

(3) A licensee shall, after getting the approval for change of shareholding structure from the Registrar of companies as required by the Companies Act, notify the Authority about such change.

Application for
Renewal of a
Licence

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

(2) Application for a renewal of a licence in sub-rule (1) 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 the conditions of the licence which is due to expire.

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

Suspension or
Revocation of a
Licence

23. A licence may be:

(a) suspended by the Authority for a period of twelve months in case of a serious violation of the licence terms, provisions of the Act, these rules 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.

Appeal

24. Any person who is aggrieved by the decision of the Authority made under this Part may lodge an appeal to the Tribunal pursuant to the provisions of the Fair Competition Act.

PART IV GENERAL OBLIGATIONS OF A RETAILER

General
Obligations of a
Retailer

25. – A retailer shall at all times:

(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) ensure that it inspect and clean its storage facilities at least once in the licence term in accordance with Good Petroleum Industry Practises;
 - (c) procure a petroleum product only from a wholesaler and establish and maintain records of such procurements pursuant to the applicable law and Orders and directions of the Authority;
 - (d) establish and maintain records pursuant to the applicable law and orders and directions of the Authority;
 - (e) as soon as practicable, but in any event not later than twenty-four hours after the fact, notify the Authority of the occurrence of a dangerous situation or incident within the licensed facility; such notification shall comprise the steps taken or proposed to be taken by such retailer to remedy such dangerous situation or Incident or to eliminate or minimize any danger arising therefrom;
 - (f) not offload a petroleum product from any vehicle to a retail outlet from 18:00 hours to 06:00 hours unless there is adequate lighting or light at the retail outlet;
 - (g) provide the Authority with full access to its records, documents, sites and assets pursuant to these rules and applicable law;
 - (h) prepare a weekly stock position of a petroleum product in a licensed facility as shall be specified in writing by the Authority;
 - (i) ensure the safe disposal of any petroleum product and waste oil;
 - (j) procure and maintain in force a valid insurance cover in respect of all liabilities that may arise from the conduct of its licensed activity;
 - (k) not keep fireworks or any other instruments or products in or near a licensed facility that might pose a risk of fire or otherwise;
 - (l) ensure that its petroleum products comply with the approved specifications;
 - (m) not decommission its licensed facility otherwise than pursuant to these rules and applicable law;
 - (n) ensure that a supervisor is present at a licensed facility at all times, and in his absence any person employed or acting as an agent of the retailer at a licensed facility shall perform the duties of a supervisor;
 - (o) prior to effecting any major replacement or maintenance to a licensed facility or a part thereof, notify the Authority not less than fourteen days prior to commencing such replacement or installation;
 - (p) ensure that a licensed facility and related equipment are calibrated for correct measurements and are in good working condition in accordance with approved specifications and Good Petroleum

Industry Practices;

- (q) 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 a licensed facility;
- (r) retain for not less than twelve months and make available to the Authority on demand, records of the activities described in rule 25 (q);
- (s) promptly notify the Authority of any apparent loss or gain of a petroleum product that is outside normal operating patterns;
- (t) maintain and make available to the Authority on demand documentary evidence demonstrating that all electrical equipment and installations in a licensed facility relevant to the delivery, storage and dispensing of a petroleum product, and to areas where inflammable gases or vapours capable of producing explosive or ignitable mixtures may occur; comply with approved specification and installation procedures in accordance with existing codes or applicable law;
- (u) not abandon a licensed facility other than in accordance with applicable law or directions of the Authority;
- (v) display in a conspicuous place at a licensed facility a licence or a certified copy thereof;
- (w) print a licence number on all accounting documents employed in its licensed activity, including invoices, delivery notes and receipts;
- (x) not engage in any activities that disrupt or interfere with competition; and
- (y) 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 licensed activity; or
 - (ii) if the conduct of its licensed activity would or might lead to the breach of any of these rules or materially affect its operations.

Protection of
Lives and
Property

26. - (1) A retailer shall, while storing, keeping, handling, conveying, using or disposing of any petroleum product, 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 retailer 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 retailer 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 a licensed activity.

Compensation
for Loss
Suffered

27. – (1) A retailer shall be obliged to compensate any person who has suffered any loss of life or property as a result of a licensed activity.

(2) Any person who has suffered loss of life or property as a result of a licensed activity shall first lodge a complaint with a retailer whose licence 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 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.

Insurance

28. A retailer shall ensure that it procures adequate insurance cover for a petroleum product, environment, personnel, customers and visitors of a licensed facility.

Maintenance of
Records,
Provision and
Disclosure of
Information

29. - (1) A retailer shall at all times:

- (a) keep complete and accurate records and data related to its licensed 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 licensed 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 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.

Confidential
Information

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

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

(3) A retailer 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 ENVIRONMENTAL PROTECTION

Compliance with
Environmental
Laws and
Standards

31. - (1) A retailer shall comply with the requirements of all applicable environmental laws and standards related to the licensed facility.

(2) Subject to applicable law a retailer shall:

- (a) carry out an environmental impact assessment before establishing a licensed facility, or making a major improvement to an existing facility;
- (b) take all necessary preventive measures to avoid pollution resulting from operating its pumping stations, treatment plants, or networks;
- (c) observe strict environmental, health, and industrial safety standards as required by applicable law; and
- (d) perform an environmental audit related to licensed 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 and increasing the number of storage tanks.

Sanctions for
Violation of
Environmental
Laws
Cap. 191

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

PART VI TECHNICAL PROVISIONS

Storage Tanks to
be Colour Coded

33. A retailer shall in order to facilitate identification, especially during product deliveries into underground storage tanks ensure that tanks manhole covers and slabs have the following colour coding:

- (a) Gasoline - Red
- (b) Kerosene - Blue
- (c) AGO - Yellow

Forecourt
Design

34. A retailer shall ensure that the forecourt of a retail outlet is carefully designed to enable a customer to get on and off the refueling area safely and rapidly, and to take maximum opportunity to use add-on facilities such as convenience shops, lube or wash bay, vulcanizing center, tyre alignment, air,

water and balancing facilities.

Location of
Dispensing
Pumps

35. – (1) A retailer shall ensure that all dispensing pumps at a retail outlet are properly located to allow:

- (a) full visibility of dispensing pumps to approaching customer;
- (b) full visibility of dispensing pumps from the manager's office for security as well as overall control; where this cannot be achieved due to design constraints Closed Circuit Television (CCTV) may be used; and
- (c) easy access to pumps and avoid tight turning circles or the need for maneuvering to approach refueling positions.

(2) A retailer shall ensure that:

- (a) the forecourt or drive ways of a retail outlet are constructed using concrete, pavement blocks or asphalt with a provision made for a level bay to allow for accurate measurements of received petroleum products; and
- (b) fueling and discharge areas of a retail outlet are constructed out of hard surface or concrete to protect the soil from oil spills.

Maintenance of
Oil Interceptors

36. – (1) A retailer shall always ensure that a retail outlet has oil interceptors.

(2) Fueling area and discharge for the drainage system shall be connected to the retail outlet oil interceptor.

(3) A retailer shall ensure that the hydrocarbon content in effluent from the oil interceptor does not exceed 100 ppm.

Building
Designs and
Canopies

37. – (1) A retailer shall ensure that all buildings are designed and constructed to allow safe cash handling system, drop safes, night time pay windows and be fitted with adequate number of security cameras at areas with high security risks.

(2) A retailer shall ensure that canopies are constructed using non combustible materials and are above hazardous areas related to dispensing equipment and have a minimum height of five meters from forecourt finish level.

(3) A retailer shall ensure that illumination provided at a retail outlet is good enough to allow clear visibility for operation and security purposes at night.

(4) A retailer shall ensure that every luminary installed at a retail outlet is suitably explosion protected.

Electrical
Standby
Generator

38. – (1) A stand-by electrical power generator with capacity matching the outlet's electrical power requirements shall be installed to provide power to cover operations, security and lighting in cases of power outages or black-

outs.

(2) A retailer shall ensure that an emergency switch is installed on all sites to cut-off power supply to all dispensing pumps in case of emergency situation like oil spill and fire.

Petroleum Price
Billboards

39. – (1) A petroleum price billboard shall be erected conspicuously at a retail outlet as a free standing structure or as part of the prime sign with the minimum dimensions of:

- (a) length - 2.0 meters
- (b) breadth - 1.2 – 1.5 meters
- (c) thickness - 0.2 meters

(2) The base of the billboard shall not be less than 3.0 meters high from ground level.

(3) The prices of all petroleum products on offer for sale at a retail outlet shall be displayed on the billboard and the unit price of each petroleum product shall appear in Tanzania shillings per litre.

(4) The nature of the billboard may include neon or electronic messaging, provided the prices are clearly legible to all motorists approaching a retail outlet from a minimum distance of fifty meters.

Warning Signs

40. – (1) Warning notices and pictograms shall be boldly displayed at a retail outlet for customers, visitors and attendants to communicate the following:

- (a) Petroleum Motor Spirit, Highly Inflammable;
- (b) No Smoking;
- (c) No Naked Fire;
- (d) Switch Off Engine; and
- (e) Switch Off Mobile Phones.

(2) The notices and pictograms described in sub-rule (1) of this rule shall be installed in the vicinity of a dispensing pump, underground tanks, filling points and vent pipes and shall be conspicuous from a distance of 3 to 5 meters.

(3) A retailer shall ensure that an underground tank's identification includes the following :

- (a) tank number;
- (b) maximum working capacity;
- (c) product grade; and
- (d) colour code.

Compliance
with
Specifications

41. - (1) A retailer shall comply with the approved specification pertaining to the handling, storage and composition of a petroleum product which is

consistent with these rules and applicable law.

(2) A retailer 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.

(3) A retailer shall not mix or blend any petroleum product unless allowed to do so in writing by the Authority.

(4) A retailer shall not use any container to store or convey a petroleum product unless such container is leak and spill proof and suitable and safe for the storage and conveyance of a petroleum product.

(5) A retailer shall not use or allow to be used a container for storing a petroleum product which poses or may pose a risk of significant:

- (a) environmental harm; or
- (b) harm with regard to the safety or health of any person or animal.

42. - (1) A retailer shall:

- (a) ensure that all buildings, roads, structures and plants used in connection with a licensed facility are designed, constructed, equipped and maintained:
 - (i) in such a way as to prevent fires and explosions;
 - (ii) so as to minimize the harmful effects of fires or explosions if they occur;
- (b) ensure that personnel involved in the handling and dispensing of a petroleum product exercise caution in respect of anything that may cause fire or an explosion, and that such personnel follow the Applicable law on matters related to fire and explosions; and
- (c) clearly indicate by a sign a place at a licensed facility where a petroleum product is handled or stored.

(2) A retailer shall make reasonable efforts to ensure that no person throws, leaves or creates any open or naked light, spark or flame or any burning or smouldering material on a licensed facility.

(3) A retailer shall ensure that no person:

- (a) keeps an engine running while a petroleum product is being dispensed into the tank of a vehicle; and
- (b) receives or makes calls from a cellular telephone or any other electronic communication apparatus within a licensed facility except in places specifically designated for such activity.

(4) A retailer shall take adequate precautions to prevent the outbreak of fire

when storing, keeping, handling, conveying, using or disposing of a petroleum product.

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

(6) A retailer shall:

- (a) position the equipment described in sub-rule (5) of this rule in accessible places at the licensed facility; and
- (b) in any event, not less than once a year, test the equipment described in sub-rule (5) of this rule pursuant to applicable law.

(7) A retailer shall establish a fire emergency plan to be employed in the event of a fire at a licensed 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

43. - (1) A retailer 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.

(2) The Authority may in the event a retailer fails to comply with sub-rule (1) (b) of this rule within the period of time established by the Authority, order such retailer to take such steps as the Authority may require in order to clean up a petroleum product spill at its own cost.

(3) Any retailer who fails to comply with an order of the Authority issued pursuant to sub-rule (2) of this rule commits an offence and shall be liable, on conviction, to a fine of five million shillings or to imprisonment for a term not exceeding two years or to both.

(4) Without prejudice to the provisions of sub-rules (1), (2) and (3), any person who is affected by any spill of a petroleum product and seeks redress,

shall first lodge a complaint with a retailer whose licence has caused such spill with a view to reaching an amicable settlement

(5) In the event no settlement is reached under sub-rule (4), the person who is affected by the spill may lodge a complaint to the Authority for compensation from a retailer 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
Licensed
Facility

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

(2) The Authority may access and inspect a licensed facility, equipment and documents, and a retailer shall render such assistance to inspectors 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 licensed facility for the purpose of conducting an inspection.

(4) During inspection an inspector may:

- (a) take samples of any substance or article stored in a licensed facility;
- (b) make copies or take extracts from any book, accounts or records kept on a licensed facility;
- (c) inspect machinery, equipment, appliances, meters, fittings and apparatus; and
- (d) inspect any vehicle that is found at a licensed facility.

Prohibited Acts
Against
Inspectors

45. - (1) A retailer shall not:

- (a) hinder or obstruct an inspector in the exercise of any of the powers conferred upon it under these rules;
- (b) use abusive, threatening or insulting language to an inspector;
- (c) deny or fail to comply with a requirement, direction or notice of an inspector; and
- (d) when required by an inspector 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 five million shillings or to imprisonment for a term not exceeding two years or both.

Decommissioning
Procedure

46. - (1) A licensed facility may, subject to the provisions of this rule, be decommissioned:

- (a) after receipt of a written application for a decommissioning from a

wholesaler;

- (b) by an Order of the Authority where it is satisfied that such facility has been abandoned by its licensee for a period not less than three 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 retailer seeking to decommission a licensed facility shall notify the Authority not less than thirty days prior to such decommissioning in order to enable the Authority to 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 licensed facility, whether such decommissioning has been done following the request by the licensee or by Order of the Authority.

Site Restoration

47. – (1) The Authority shall, after confirming that the area where a licensed facility has been constructed has been restored to its original state, issue a certificate of compliance to an retailer.

(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) infilling excavations.

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

PART VII PENALTIES AND REMEDIAL MEASURES

Penalties and
Remedial
Measures

48. – The Authority may, without prejudice to the penalties prescribed in these rules and applicable law where it determines that a retailer is in violation of licence conditions, the Act, these rules or applicable law:

- (a) issue a warning;
- (b) issue a Compliance Order restraining a retailer from continuing violation of the applicable law;
- (c) restrict the conduct of a licensed activity;

- (d) order a retailer 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.

Appeal
Cap. 285. **49.** – Any person who is aggrieved by the decision made by the Authority under rule 48 may lodge an appeal to the Tribunal pursuant to the provisions of the Fair Competition Act.

**PART VIII
GENERAL PROVISIONS**

Power to enter and Close the Facility **50.** – (1) Notwithstanding any provisions of these rules an inspector shall with an Order in writing have the right and obligation to enter upon any licensed facility and close it down where he determines that a licensed activity is being conducted in contravention of these rules, licence conditions, the Act or applicable law.

(2) An inspector may, while discharging his obligations 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 **51.** - Any person who conducts a retail business whether licensed or not, shall within six 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, the Act and applicable law.

General Penalty **52.** 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 **53.** 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 out in rule 23 be liable to a fine of not less than seven million shillings or to imprisonment for a term of not less than three years or to both.

Authority to Supplement Procedures as Needed **54.** 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.

Dar es Salaam
....., 2012

Haruna Masebu
Director General