

GOVERNMENT NOTICE No. 99 Published on 18/03/2016

THE PETROLEUM ACT
(No. 21 OF 2015)

THE PETROLEUM (BITUMEN AND PETCOKE OPERATIONS)
RULES, 2016

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RULES
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(Made under section 259 (1))

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THE PETROLEUM ACT
(NO. 21 of 2015)

THE PETROLEUM (BITUMEN AND PETCOKE OPERATIONS)
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PART I
PRELIMINARY PROVISIONS

Citation	1. These Rules may be cited as the Petroleum (Bitumen and Petcoke Operations) Rules, 2016.
Application	2. These Rules shall regulate bitumen wholesale business and petcoke wholesale business.
Interpretation	3. In these Rules, unless the context otherwise requires:
No. 21 of 2015	“Act” means the Petroleum Act; “applicable law” means any principal law, treaty, proclamation, regulation, rule, order or a by-law that is customarily treated in Tanzania as having legally binding force in matters pertaining to regulation of bitumen and petcoke;
Cap. 130	“approved specification” means any specification or standard in relation to a petroleum product applied by the Authority and as approved pursuant to the Standards Act, and any other standards that are widely used for Good Petroleum Industry Practices;

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

"bitumen" means a non-crystalline black or brown in colour viscous liquid or solid obtained from crude oil refining processes or natural deposits that consists essentially of a mixture of hydrocarbons and their derivatives, which is soluble in trichloroethylene, substantially non-volatile, softens gradually when heated and possesses water proofing and adhesive properties; and includes bitumen cutback, bitumen emulsion, and other bitumen penetration grades ;

"bitumen cutback" means a product used for road surfacing applications that is obtained by blending bitumen with low *viscosity* diluents such as kerosene, white spirit or diesel;

"bitumen emulsion" means a liquid mixture obtained by dispersion of *bitumen* in water, achieved by the use of emulsifying agents;

"bitumen wholesale business" means an activity reasonably required in connection with the importation, blending, handling, possession, storage, , distribution and selling of bitumen to a customer or for export to any foreign country;

"blending" means mixing of a bitumen with another substance so that they combine together to make a desired product that meets approved specification;

Cap. 245

“Certification Authority” means the Weights and Measures Agency established under the provisions of the Executive Agencies Act;

"container" means any approved receptacle for conveyance and storage of bitumen or petcoke;

“Compliance Order” means an order issued by the Authority pursuant to section 39 of the EWURA Act;

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“customer” means any person supplied or that has a contract to be supplied with bitumen or petcoke;

“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;

"facility" means a warehouse, blending plant, finished product storage area, storage tank, accessories, equipment, buildings or parking area in which a supplier uses to conduct a regulated activity;

“Good Petroleum Industry Practices” means any conduct 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 the leakage of a petroleum product from a transport unit or a spill of a petroleum product resulting from the dispensing or offloading activities;
- (b) death or personal injury occurring as a result of the conduct of a regulated activity;
- (c) a fire or an event incidental to a fire resulting from the conduct of a regulated activity; or
- (d) any other significant event that may adversely affect the conduct of a regulated 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;

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“leak” means the discharge of a bitumen into any structure or thing;

“licence” means an authorization issued by the Authority to conduct a regulated activity pursuant to these rules;

“licensee” means a holder of a licence;

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“NEMC” means the National Environment Management Council established under the Environmental Management Act

“operator” means a person who is responsible for the day-to-day activities of a facility, whether such person is located on the relevant premises during business hours or is the owner of such facility and who for the purpose of these rules, shall be deemed to have the authority and the ability to:

- (a) grant an inspector access to relevant premises and facilities to facilitate the performance of their duties;
- (b) detect any defect weakness within a facility and make an authoritative judgment as to its suitability for further use;
- (c) answer questions raised by the inspectors; and
- (d) witness the inspection process.

"petcoke" means the solid carbonaceous material produced from a coker after cracking and distillation from petroleum refining operations;

"petcoke wholesale business" means an activity reasonably required in connection with the handling, possession, storage, importation, distribution and selling of petcoke to a customer or for export;

“regulated activity” means an activity necessary to operate a facility and includes all activities reasonably required in connection with the handling, possession, storage, importation, distribution of bitumen or petcoke, blending of bitumen, the sale of bitumen or petcoke to a customer or for export, and the terms bitumen wholesale business and petcoke wholesale business shall be construed accordingly;

“dealer” means a person conducting a regulated activity;

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Cap. 130 "TBS" means the Tanzania Bureau of Standards established under the Standards Act; and

Cap. 285 "Tribunal" means the Fair Competition Tribunal established under the provisions of the Fair Competition Act.

PART II

APPLICATION FOR A CONSTRUCTION APPROVAL OF A FACILITY

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 under these rules.

(2) Any person who wishes 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 details including its name, business address, telephone and fax number;
- (b) the location and complete address of the proposed facility;
- (c) a list of personnel and proof of training and qualification;
- (d) a list of amenities to be constructed; and
- (e) any other information as shall be required by the Authority.

(3) The application form shall be accompanied by:

- (a) certified copies of its registration documents;
- (b) a project or business plan describing the scope of the regulated activity;
- (c) an environmental impact assessment certificate from relevant authorities;
- (d) proof of land ownership and right of use;
- (e) certified copy of a building permit;
- (f) a list of blending units and storage tanks with its corresponding certificate of approval or any other similar documents as provided by the equipment supplier or manufacturer;

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- (g) an engineering layout plan duly signed by a registered engineer which shall specify:
 - (i) the number of tanks and type of installation where applicable;
 - (ii) the location and distances between building structures and amenities and equipment;
 - (iii) entry and exit;
 - (iv) perimeter wall and property boundaries; and
 - (v) that the engineering, design and construction shall be carried out in accordance with approved specifications; and
- (h) details of environmental protection measures to be employed to prevent harmful environmental impacts resulting from the regulated activity.

Application to be Accompanied by a Fee

5. An application for a construction approval under 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 rule 4, 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 with land ownership and land use laws; and
- (c) applicant's compliance to health, safety and environmental requirements.

(3) The Authority shall, after 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.

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

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

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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. – (1) A construction approval issued by the Authority under rule 6 shall remain in force for such period as the Authority may determine.

(2) The construction approval issued by the Authority under rule 6 shall cease to have effect in the event the holder of the said approval fails to commence construction within twelve months from the date of issue.

Notice of
Commence-
ment

8. A holder of a construction approval shall issue to the Authority a notice of the commencement of construction 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 published 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, revoke, 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 published 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 published 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.

(5) Without prejudice to the provisions of sub-rule (2), the Authority may, pending the expiry of the notice under that sub-rule

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and where there are compelling reasons to do so, order the holder of the construction approval to stop the construction work.

PART III
LICENSING PROCEDURES

Regulated
Activity

10. - (1) No person shall conduct a regulated activity without seeking and obtaining a licence.

(2) Any existing operator 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.

(4) The Authority shall issue licences in respect of the following regulated activities:

- (a) bitumen wholesale business; and
- (b) petcoke wholesale business.

Power to
Enter and
Close a
Facility

11. Notwithstanding the penalty prescribed under rule 10 (3), the Authority may, in the event it determines that any person has contravened the provisions of rule 10 (1) or 10 (2), and with a Compliance Order enter upon any building, premises or facility and close it down.

Licensing
Requirements
for a Bitumen
Wholesale
Licence

12. - (1) No person shall be issued with a bitumen wholesale licence unless their application meets the necessary technical and financial licensing requirements which are:

- (a) a business plan describing the scope of a regulated activity;
- (b) certified copies of registration documents of the applicant;
- (c) tax identification number certificate issued to the

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- applicant;
- (d) written proof of ownership or lease of a bitumen storage area that complies with Good Petroleum Industry Practices including:
 - (i) an entrance and an exit;
 - (ii) sufficient ventilation;
 - (iii) spillage containment; and
 - (iv) adequate fire fighting equipment;
 - (e) possession of an Environmental Impact Assessment Certificate from the relevant authority;
 - (f) possession of an Occupational Safety and Health Certificate from the relevant authority;
 - (g) a lay out plan of the site duly signed by a registered engineer showing storage area, blending units and all traffic patterns, where applicable;
 - (h) possession of adequate skilled personnel with requisite knowledge in the respective field ;
 - (i) written proof of land use right and ownership of a bitumen blending plant, that complies with approved specifications and Good Petroleum Industry Practices, where applicable;
 - (j) possession of a valid certificate of correctness of a measuring instrument from the Certification Authority
 - (k) proof of financial capability which is either:
 - (i) a balance of not less than five hundred million shillings or equivalent in a convertible currency at a bank or financial institution licensed by the Bank of Tanzania to act as such;
 - (ii) a bank guarantee of not less than five hundred million shillings or equivalent in a convertible currency; or
 - (iii) an unequivocal letter of comfort from a financial institution or a bank that confirms that the bank or the financial institution shall extend a loan to the applicant for the amount not less than five hundred million shillings or

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equivalent in a convertible currency, provided that the letter shall be signed by the chief executive officer of the institution or the bank.

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

Licensing
Requirements
for a Petcoke
Wholesale
Licence

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

- (a) a business plan of the regulated activity;
- (b) certified copies of registration documents of the applicant;
- (c) tax identification number certificate issued to the applicant;
- (d) written proof of ownership or lease of a petcoke storage area that complies with Good Petroleum Industry Practices including:
 - (i) an entrance and an exit ;
 - (ii) leaching containment; and
 - (iii) adequate fire fighting equipment;
- (e) possession of an Environmental Impact Assessment Certificate from the relevant Authority;
- (f) possession of an Occupational Safety and Health Certificate from the relevant Authority;
- (g) a lay out plan of the site duly signed by a registered engineer showing storage piles, conveyors and all traffic patterns;
- (h) possession of adequate skilled personnel;
- (i) sufficient methods to control emission of fugitive particulate matter including:
 - (i) protective cover or a surfactant solution or water sprayed on regular basis; and
 - (ii) methods to reduce dust in conveyor loading operations;
- (j) appropriate storm water drainage provisions;

(k) proof of financial capability which is either:

- (i) a balance of not less than five hundred million shillings or equivalent in a convertible currency at a bank or financial institution licensed by the Bank of Tanzania to act as such ;
- (ii) a bank guarantee of not less than five hundred million shillings or equivalent in a convertible currency; or
- (iii) an unequivocal letter of comfort from a financial institution or a bank that confirms that the bank or the financial institution shall extend a loan to the applicant for the amount not less than five hundred million shillings or equivalent in a convertible currency, provided that the letter shall be signed by the chief executive officer of the institution or the bank.

(2) Notwithstanding the generality of sub-rule (1), 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. An applicant for a licence shall apply to the Authority for a licence by filling in the appropriate form prescribed by the Authority, and lodging it with the Authority. The form shall be accompanied by documents prescribed in rule 12 and 13 together with any other documents or records as may be required by the Authority or applicable law.

Licence
Application to
be
Accompanied
by a Fee

15. An application for a licence under rule 14 shall be accompanied by a non-refundable application fee as shall be 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 correctness of the information contained therein and shall thereafter be published in at least two newspapers of wide circulation in Tanzania, one in

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English and another in Kiswahili, with a view to soliciting comments and representations on the application.

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

(3) The public shall be invited, by the notice to be published under sub-rule (1), to submit their comments and representations within twenty-one days from the date of publication and the comments and representations received shall be considered by the Authority in arriving at the decision on the application.

Grant of a
Licence

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

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

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

- (a) the licensing requirements in rules 12 and 13;
- (b) the protection of the environment;
- (c) objections or representations received from the public pursuant to rule 16;
- (d) compliance to land use laws;
- (e) the applicant's record of compliance with the Act, these rules and other applicable laws;
- (f) compliance of the facility on matters related to:
 - (i) safety;
 - (ii) health;
 - (iii) security; and
 - (iv) environment;
- (g) any other matter relevant to the orderly conduct of Bitumen and Petcoke Business in Tanzania.

(3) 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.

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Validity and
Duration of a
Licence

18. – (1) The term of a licence shall be five years.

(2) Notwithstanding the provisions of sub-rule (1), a licence shall cease to have effect if the respective licensee fails to commence a regulated activity within twelve 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, as the case may be.

(4) A licence transfer application received by the Authority shall be evaluated to verify its completeness and correctness 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 public shall be invited, by the notice published under sub-rule (1), 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.

(6) The Authority shall, after the expiration of the notice in sub-rule (5) 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.

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(7) The transferee shall upon transfer, be required to comply with all the the transferor's previous licence conditions.

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 the 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 requesting for the said approval.

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

Cap. 212

(4) 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 shall, in the event it wishes to renew its licence, apply to the Authority for the renewal of the 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 and shall be made at least three months before expiration of the licence term.

(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

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to expire.

(4) 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.

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 conditions, the 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.

PART IV
GENERAL OBLIGATIONS OF A BITUMEN WHOLESALER AND
PETCOKE WHOLESALER

General
Obligations
of a Bitumen
Wholesaler

24. A bitumen wholesaler shall:

- (a) comply with:
 - (i) applicable law;
 - (ii) Orders and directions of the Authority;
 - (iii) these rules;
 - (iv) Good Petroleum Industry Practices; and
 - (v) any Guidelines issued by the Authority;
- (b) 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, or occurring within its regulated 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;
- (c) upon request, make available to the Authority records of the regulated activity;
- (d) print the number of the licence on every accounting

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- document used for its operations with a customer, including invoices delivery notes, and receipts;
- (e) not engage in any activity that disrupts or interferes with competition;
 - (f) as soon as practicable, but in any event not later than thirty days after it becomes aware of the fact, notify the Authority in writing:
 - (i) if it is unable to conduct its regulated activity;
 - (ii) if the conduct of its regulated activity would or might lead to the breach of any of these rules, applicable law or materially affect services to the customers; or
 - (iii) of any material change in circumstance that adversely affects its regulated activity;
 - (g) cause the operator to be present on the facility at all times;
 - (h) notify the Authority of any change of its address prior to such change, display in a conspicuous place at its facility its licence or a true copy thereof, duly certified;
 - (i) ensure that any bitumen that is procured, stored, transported or sold complies with approved specifications;
 - (j) ensure that bitumen is adequately packed and the content weight or volume is accurate;
 - (k) ensure that the testing and measuring instruments used for its regulated activity are accurate and calibrated by the Certification Authority;
 - (l) ensure that waste is safely disposed of in compliance with applicable law;
 - (m) on a monthly basis, submit to the Authority a report on the quantity of the bitumen imported or processed by type and grade;
 - (n) ensure that a bitumen is marked with the following information:
 - (i) manufacturer's name;
 - (ii) product brand name;

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- (iii) product type;
 - (iv) product grade, quantity in weight or volume;
 - (v) batch number;
 - (vi) health, safety and environmental precaution; and
 - (vii) country of origin;
- (o) conduct business in such a way that:
- (i) customers are treated fairly and equitably; and
 - (ii) comparable services are provided to all customers;
- (p) maintain and make available to the Authority upon request documentary evidence that:
- (i) all electrical equipment and installations in the facility relevant for the conduct of its regulated activity comply with existing relevant codes and applicable law; and
 - (ii) areas of the facility where flammable gases or vapours may occur comply with existing relevant codes or applicable law; and
- (q) issue an official receipt bearing its registered name and address in all transactions relating to bitumen which shall specifically set out:
- (i) its registered name and address;
 - (ii) the quantity and price of the bitumen sold; and
 - (iii) the date of the transaction.

General
Obligations
of a Petcoke
Wholesaler

25. A petcoke wholesaler shall:

- (a) comply with:
 - (i) applicable law;
 - (ii) Orders and directions of the Authority;
 - (iii) these rules;

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- (iv) Good Petroleum Industry Practices; and
 - (v) any Guidelines issued by the Authority;
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- (b) 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, or occurring within its regulated 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;
 - (c) upon request, make available to the Authority records of the regulated activity;
 - (d) print the number of a licence on every accounting document used for its operations, including invoices, delivery notes, and receipts;
 - (e) not engage in any activities that restrict, disrupt or interfere with competition;
 - (f) as soon as practicable, but in any event not later than thirty days after it becomes aware of the fact, notify the Authority in writing:
 - (i) if it is unable to conduct its regulated activity;
 - (ii) if the conduct of its regulated activity would or might lead to the breach of any of these rules, applicable law or materially affect services to blending customers; or
 - (iii) of any material change in circumstance that adversely affects its regulated activity;
 - (g) cause an operator to be present in the facility at all times;
 - (h) notify the Authority of any change of its address, name or location not later than seven days after such change; and
 - (i) display in a conspicuous place at its facility its licence or a true copy thereof, duly certified.

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Protection of
Lives and
Property

26. -(1) A supplier shall, while storing, keeping, handling, conveying, using or disposing of a bitumen or petcoke, take such precautions and exercise such care as may be reasonable under the circumstances and as provided in the material data sheet for each bitumen or petcoke 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 supplier shall dispose of any waste related to bitumen or petcoke business 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.

Compensation
for Loss
Suffered

27. - (1) A supplier shall compensate any person who has suffered loss of life, personal injury or loss of property as a result of a regulated activity.

(2) Any person who has suffered loss of life or property as a result of the regulated activity or a retail business shall first lodge a complaint with a supplier whose regulated activity or retail business, as the case may be, 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 supplier shall ensure that it procures adequate insurance cover for the regulated activity.

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Maintenance
of Records,
Provision
and
Disclosure of
Information

29. - (1) Every supplier 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 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 supplier pursuant to these rules and applicable law shall be presumed not to be confidential.

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

(3) A supplier 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.

Penalty

31. Any supplier who contravenes any of the provisions of these rules for which no specific penalty is prescribed in these rules shall be liable to the penalties prescribed in the schedule.

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PART V
ENVIRONMENTAL PROTECTION

Compliance
with
Environmental
Laws
and
Standards

32. - (1) Every supplier shall comply with the requirements of all applicable environmental laws and standards related to a regulated activity.

(2) Subject to applicable law a supplier shall:

- (a) carry out an environmental impact assessment and obtain an environmental certificate when establishing a facility, or making a 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 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
Events of
Violations of
Cap 191

33. The Authority shall, in the event it determines that a supplier has violated the licence conditions, the Act, these rules or any applicable law on matters related to the protection of environment, shall take appropriate actions pursuant to the provisions of the Environment Management Act.

PART VI
TECHNICAL OBLIGATIONS OF A SUPPLIER

Compliance
with
Specifications
and Standards

34. – (1) A supplier shall comply with approved specifications pertaining to the handling, storage and composition of a bitumen or petcoke which is consistent with these rules and applicable law.

(2) A supplier 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

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such deviation is for public interest and will not negatively affect public safety and the environment.

Offence

35. – (1) Any person who contravenes the provisions of rule 34 (1) commits an offence and shall upon conviction be liable to a fine of not less than three million shillings or imprisonment for a term of three years or to both.

(2) Any person who contravenes the provisions of rule 34 (1) for the second time shall be liable to a fine of five million shillings and shall have its licence suspended for a period of twelve months.

(3) Any person who contravenes the provisions of rule 34 (1) for the third time shall have its licence revoked.

Deceptive
Trade
Practices

36. - (1) A supplier shall not engage in any activity that may deceive, tend to deceive or have the effect of deceiving a customer, with respect to:

- (a) the brand name of a bitumen or petcoke; and
- (b) a bitumen or petcoke's composition, type, grade or quantity.

(2) Any supplier who contravenes the provisions of sub-rule (1) of this rule shall be liable to a fine of three million shillings.

Storage or
Blending of a
Bitumen or
Petcoke

37. – (1) A supplier shall:

- (a) locate, construct, process, maintain and operate its works connected with storage or blending of a bitumen or petcoke in accordance with these rules, respective licence, applicable laws and Good Petroleum Industry Practices; and
- (b) conduct its regulated activity in such a way as not to endanger public health or safety and environment.

(2) A supplier shall mark with conspicuous signs the storage tanks and containers of each product as per the applicable law.

(3) A supplier shall, when storing bitumen or petcoke employ

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appropriate safeguards to ensure that a leak or spill is easily detected.

(4) A supplier shall, where it intends to replace or install equipment at a facility or a part thereof, notify the Authority not less than thirty days prior to commencing such replacement or installation in order to allow the Authority to make necessary inspection and issue necessary approvals.

Provision for
Fire
Extinguishing
Equipment

38. - (1) A supplier shall provide and maintain adequate fire extinguishing equipment at a facility as required by applicable law and Good Petroleum Industry Practices.

(2) A supplier shall, not less than once a year, test the fire extinguishing equipment pursuant to its specification and applicable law.

Preparation
of Fire
Emergency
Plan

39. A supplier 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 facility; and
- (d) be made available to the Authority on request.

Inspection of
a Facility

40 - (1) The Authority may, at any time, inspect a facility pursuant to these rules and applicable law.

(2) The Authority may access and inspect a facility, equipment and documents, and a bitumen wholesaler, petcoke wholesaler and a bitumen blender as the case may be, shall render such assistance

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to inspectors as may be required in the course of such inspection.

- (4) During inspection, an inspector may:
- (a) take samples of any substance or equipment or articles stored in a facility or a bitumen shop;
 - (b) make copies or take extracts from any book, accounts or records kept on a facility or a bitumen shop;
 - (c) inspect machinery, equipment, appliances, meters, fittings and apparatus; and
 - (d) inspect any vehicle that is found at a facility.

Prohibited
Acts Against
Inspectors

41. - (1) A dealer shall not:

- (a) hinder or obstruct an inspector in the exercise of any of the powers conferred upon him 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, to a fine of five million shillings or to imprisonment for a term not exceeding two years or both.

Decommissioning
Procedure

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

- (a) after receipt of a written application for decommissioning from a bitumen blender ;
- (b) by an Order of the Authority where it is satisfied that such facility has been abandoned by the licensee for a period of 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 danger to lives and property.

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(2) A supplier shall in the event that it seeks to decommission a facility, notify the Authority not less than thirty days prior to such decommissioning in order to enable the Authority to make necessary inspections and issue necessary approvals.

(3) Notwithstanding any provision of these rules, a supplier shall pay all costs associated with the decommissioning of a facility, whether such decommissioning has been done following the request by a bitumen blender or by Order of the Authority, as the case may be.

Site
Restoration

43. - (1) A dealer shall, immediately after decommissioning a facility, restore the site to its original state so that it does not pose a threat to the environment or the safety and health of the public.

(2) The Authority shall, after completion of the restoration of a facility to its original state by a supplier, issue a certificate of compliance to a supplier confirming such restoration.

(3) For the purposes of sub- rule (1) of this rule “restore to its original state” means:

- (a) to return the area in which a facility is located to its original and natural state as it was before the construction and installation of the facility; or
- (b) to render the area in which the 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 of excavations.

(4) The Authority shall, before issuing a certificate of compliance under sub-rule (2) of this rule, consult NEMC.

(5) Any person who fails to restore a site to its original state as

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required under sub-rule (1) shall be liable to a fine of ten million shillings and to restore the site as per requirement of sub rule 1 of this rule.

**PART VII
PENALTIES AND REMEDIAL MEASURES**

Penalties and
Remedial
Measures

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

- (a) issue a warning;
- (b) issue a Compliance Order restraining the supplier from continuing violation of applicable law;
- (c) restrict the conduct of a regulated activity;
- (d) order the supplier to remedy any situation as a result of such violation;
- (e) suspend a licence for such period as the Authority may determine; or
- (f) revoke a licence.

**PART VIII
GENERAL PROVISIONS**

Power to
enter and
Close the
Facility

45. – (1) Notwithstanding any provision of these rules an inspector shall 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 provided in sub-rule (1) of this rule, seek the assistance of law enforcement institutions including the police and such institutions shall provide the requested assistance to the inspector.

Transitional
Provisions

46. – (1) All bitumen wholesaler, petcoke wholesaler and a bitumen blender whether licensed or not shall, within six months after coming into force of these rules, adjust their operations and upgrade their facilities in order to comply with the provisions of the Act and these rules.

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General Penalty 47. Any person who commits an offence under these rules for which no specific penalty is prescribed in these rules shall be liable to a fine of five million shillings.

The Authority to Supplement Procedures 48. Where procedures are not provided for in these rules, the Authority may do whatever is necessary and permitted by the Act, the EWURA Act and applicable law to enable it to effectively and completely adjudicate on any matter before it.

Appeal Cap. 285 49. Any person who is aggrieved by the decision made by the Authority under any of these rules may lodge an appeal to the Tribunal, within twenty one (21) days from the date of the decision, pursuant to the provisions of the Fair Competition Act.

SCHEDULE

(Made under Rule 31)

<i>S/N</i>	<i>Operator Details</i>	<i>First Offence</i>	<i>Second Offence</i>	<i>Third Offence</i>
1.	Bitumen Wholesaler	A fine of five million	A fine of ten million shillings	Licence Revocation
2.	Petcoke Wholesaler	A fine of five million shillings	A fine of ten million shillings	Licence Revocation

Dar es Salaam,
....., 2016

FELIX NGAMLGOSI,
*Director General Energy and Water
Utilities Regulatory Authority*