

No. R. 35

13 January 2006

PETROLEUM PRODUCTS ACT, 1977**NOTICE OF INTENTION TO MAKE REGULATIONS REGARDING
PETROLEUM PRODUCTS SPECIFICATIONS AND STANDARDS**

The Minister of Minerals and Energy intends, under section 12C(1)(d), (e) and (f) of the Petroleum Products Act, 1977 (Act No. 120 of 1977), as amended by the Petroleum Products Amendment Act, 2003 (Act No. 58 of 2003), and Petroleum Products Amendment Act, 2005 (Act No. 2 of 2005), to make the regulations in the Schedule, which are hereby published for public comment under section 12C(2) of the said Act.

Comments should be submitted not later than 16h30 on 14th March 2006 to Mr. Muzi W. Mkhize at fax no. (012) 322 8570 or e-mail address muzi.mkhize@dme.gov.za.

Enquiries can be made at telephone number (012) 317 8646.

*SCHEDULE***ARRANGEMENT OF REGULATIONS**

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DRAFT FOR PUBLIC COMMENT

Definitions

- 1 In these regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and unless the context otherwise indicates—

“**Act**” means the Petroleum Products Act, 1977 (Act No. 120 of 1977), as amended;

“**additive**” means a substance intentionally added to a petroleum product in trace or small quantities in order to improve one or more of: the petroleum product’s performance or storage stability, its performance in an engine or intended to reduce the emissions from an engine powered by that petroleum product;

“**aromatics**” means a group of hydrocarbons that contain a benzene ring in their molecular structure;

“**biodiesel**” means a biodegradable and renewable fuel or fuel component for diesel engines derived from natural oils extracted from vegetable matter, and that conforms to South African National Standard, Automotive Biodiesel, SANS 1935;

“**blend**” means a mixture of two or more compatible petroleum products having different properties in order to produce an intermediate or final petroleum product with desired attributes;

“**bowser**” means an apparatus erected on a site for the purposes of dispensing petrol or diesel into a motor vehicle;

“**certificate of compliance**” means a written statement which states that the petroleum product meets the specifications and standards stipulated in this Regulation;

“**Controller**” means the Controller of Petroleum Products as contemplated in section 3(1) of the Act;

“**end-consumer**” means a person acquiring a petroleum product for own consumption;

“**grade**” means the classification of a petroleum product according to its chemical composition and characteristics such as its RON, sulphur content, additives content and the quantity or proportion thereof;

“**label**” means a marking displayed on a bowser on a site that specifies the grade of petrol or diesel dispensed from that bowser;

“**licensee**” means a person to whom the Controller has issued a manufacturing, wholesale or retail licence in accordance with the provisions of the Act;

“**low-sulphur grade diesel**” means diesel with a sulphur content of not more than 0.005 percent by mass and conforms to the South African National Standard, ‘*Automotive diesel fuel*’, SANS 342;

“**metal-containing unleaded petrol**” means petrol containing metal based additives, other than lead, but including phosphorus with a RON of 91, 93 or 95, and may be referred to as “**lead replacement petrol**” or “**LRP**”;

“**metal-free unleaded petrol**” means petrol that does not contain any metal-based additives, with a RON of 91, 93 or 95, and may be referred to as “**unleaded petrol**” or “**ULP**”;

“**MTBE**” means methyl tertiary-butyl ether with a chemical composition of $\text{CH}_3\text{OC}(\text{CH}_3)_3$;

“**RON**” refers to research octane number, which is a measure indicating the capacity of petrol to prevent engine knocking at low speed;

“**SANS**” means the South African National Standard published by the Standards South Africa (a division of South African Bureau of Standards in terms of the Standards Act, 1993 (Act No. 29 of 1993) with the prefix “SANS”, and the number occurring immediately after SANS means the numbered standard;

“**standard grade diesel**” means diesel with a sulphur content of not more than 0.05 percent by mass and conforms to the South African National Standard, ‘*Automotive diesel fuel*’, SANS 342;

“**v/v**” means volume by volume.

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Scope of the Regulation

- 2 This Regulation prescribes specifications and standards for petroleum products that may be sold in the Republic of South Africa.

Petrol grades permitted

- 3 The permitted grades of petrol that may be sold to an end-consumer are restricted to-
 - (1) metal-free unleaded petrol with a minimum RON of 91;
 - (2) metal-free unleaded petrol with a minimum RON of 93;
 - (3) metal-free unleaded petrol with a minimum RON of 95;
 - (4) metal-containing unleaded petrol with a minimum RON of 91
 - (5) metal-containing unleaded petrol with a minimum RON of 93; and
 - (6) metal-containing unleaded petrol with a minimum RON of 95;
 - (7) petrol grades with a RON of more than 95 provided that-
 - a) only licensed wholesalers may sell or provide such petrol;
 - b) such petrol grades are only sold to-
 - (i) persons holding racing licences issued or recognised by Motorsport South Africa; or
 - (ii) manufacturers of motor vehicles or engines where such petrol grades are used for testing purposes; and
 - c) such petrol grades are not stored on, sold or provided from a site;
 - (8) petrol with lead additives for use in aeroplanes with internal combustion engines provided that-
 - a) only licensed wholesalers may sell or provide such petrol;
 - b) such petrol is only sold to licensed owners or operators of aeroplanes with internal combustion engines for their own consumption; and
 - c) such petrol is not stored on, sold or provided from a site.

- 4 Permitted metal-free unleaded petrol grades must conform to South African National Standard, Unleaded Petrol, SANS 1598, provided that—
- (1) the minimum RON rating must be 91, 93 or 95, as the case may be;
 - (2) the maximum permitted traces of lead as contamination must not exceed 5 milligrams per litre;
 - (3) the maximum permitted content of aromatics is 42% v/v;
 - (4) the maximum permitted benzene content is 3% v/v.
- 5 Metal additives intended to enhance octane ratings or limit valve seat recession in internal combustion engines must only be used in metal-containing unleaded petrol.
- 6 Permitted metal-containing unleaded petrol must conform to South African National Standard, Unleaded Petrol, SANS 1598, provided that—
- (1) the minimum RON rating must be either 91, 93 or 95, as the case may be;
 - (2) the maximum permitted traces of lead as contamination must not exceed 13 milligrams per litre;
 - (3) manganese based additives must not exceed 24 milligrams per litre;
 - (4) potassium based additives must not exceed 10 milligrams per litre;
 - (5) phosphorous based additives must not exceed 14 milligrams per litre;
 - (6) only one of the additives referred to in subregulations (3), (4) and (5) is added to such petrol;
 - (7) the maximum permitted content of aromatics is 42% v/v; and
 - (8) the maximum permitted benzene content is 3% v/v.

Petrol zones

- 7 Permitted metal-free unleaded petrol grades may be sold throughout the Republic.

Diesel grades permitted

- 8 The permitted grades of diesel that may be sold to an end-consumer are restricted to-

(1) standard grade diesel which must conform to South African National Standard, Automotive diesel fuel, SANS 342 provided that-

- a) the sulphur content of such diesel is not more than 0.05% by mass; and
- b) such diesel is blended with not more than 5% v/v biodiesel.

(2) low-sulphur grade diesel which must conform to South African National Standard, Automotive diesel fuel, SANS 342 provided that-

- a) the sulphur content of such diesel is not more than 0.005% by mass; and
- b) such diesel is blended with not more than 5% v/v biodiesel.

- 9 Biodiesel, contemplated in regulation 8, must conform to South African National Standard, Automotive biodiesel, SANS 1935.

Prohibition of certain activities

- 10 The sale of petroleum products for use in South Africa that do not comply with the provisions of this Regulation is prohibited.
- 11 Offering for sale, selling or providing one grade of petrol or diesel as another grade of petrol or diesel, as the case may be, subject to the provisions of this Regulation is prohibited.
- 12 Offering for sale, selling or providing -

- (1) any blend or mixture of different petroleum products; or
- (2) any blend or mixture of different petroleum products with other substances;

that results in the non-payment of any tax, duty or levy due is prohibited.

- 13 Offering for sale, selling or providing metal-free unleaded petrol or metal-containing unleaded petrol, which contains lead additives, subject to the provisions of this Regulation, is prohibited.
- 14 Offering for sale, selling or providing metal-free unleaded petrol or metal-containing unleaded petrol, which contains MTBE additives, subject to the provisions of this Regulation, is prohibited.

Inspection and testing of petroleum products

- 15 An inspector appointed in accordance with the provisions of section 3 of the Act, may—
 - (1) enter and search without a warrant any premises, any vehicle, vessel or aircraft and any receptacle of whatever nature;
 - (2) seize, without a warrant, a whole batch or a sample of any petroleum product for purposes of monitoring or verifying compliance with the provisions of this Regulation;
 - (3) from time to time, for purposes of monitoring compliance with this Regulation, sample and test petroleum products in accordance with the methods specified in SANS 1598, SANS 342 or SANS 1935, as appropriate;
 - (4) appoint suitably qualified experts to test petroleum products;
 - (5) demand of any person owning, offering for sale, selling or providing petroleum products governed by this Regulation, a certificate of compliance in respect of such petroleum products and such person must, if so instructed, provide the inspector with such certificate; and

- (6) demand of any person importing petroleum products governed by this Regulation, any documentation associated with such importation and such person must, if so instructed, provide the inspector with such documentation.

Permits for deviation from specifications and standards

- 16 A licensee may apply in writing to the Controller for a permit to deviate from the specifications and standards of petroleum products governed by this Regulation.
- 17 Upon receipt of an application for a permit contemplated in subregulation 16, the Controller must consider the application and consult the Minister in that regard.
- 18 In considering an application contemplated in regulation 16 the Controller must consider the urgency, health, safety, environmental, security, continuity of supply of petroleum products, national interest and logistical implications of granting or refusing such a permit.
- 19 A permit issued by the Controller permitting a licensee to deviate from the provisions of this Regulation must –
- (1) be in writing and signed by the Controller;
 - (2) specify the period for which the permit is valid and such period must not be longer than 60 days;
 - (3) specify the petroleum products for which the permit applies;
 - (4) specify the extent of the deviation from the provisions of this Regulation permitted; and
 - (5) specify such other conditions as the Controller may consider appropriate.
- 20 Notwithstanding any other penalty that may be imposed under the Act or any other law, the Controller may, in the event of non-compliance by a permit holder with any –

- (1) condition of a permit contemplated in regulation 19, terminate such permit; or
- (2) provision of this Regulation, order the permit holder to terminate the distribution and sale of such non-compliant petroleum product, with immediate effect.

21 The Controller may not terminate a permit unless –

- (1) the permit holder has been informed in writing of the intention to terminate such permit by–
 - a) setting out the particulars of such failure or contravention; and
 - b) calling upon the permit holder to make representations that may be necessary, within 7 calendar days from the date of receipt of such notice;
- (2) the Controller has considered –
 - a) any steps taken by the permit holder to remedy the non-compliance concerned or to prevent any such non-compliance from recurring; and
 - b) any other relevant matters submitted by way of representations.

Retail pump labelling

22 A label in respect of fuel specifications of this Regulation must be displayed on a bowser on a site.

23 A label contemplated in regulation 22 must –

- (1) have lettering and numbering in a standard and solid font type Arial of a size not smaller than size 55 point reading from left to right, when horizontal, regardless of the orientation of the label; and
- (2) alongside the nozzle and on the same side of the bowser as the information indicating the price of the petrol or diesel displayed on that bowser.

24 The petrol or diesel grade dispensed from a bowser must be the petrol or diesel grade specified in the label displayed on that bowser.

25 The bowser dispensing a-

- (1) metal-free unleaded petrol grade must be labelled with white lettering and numbering on a green background and must, as appropriate for the grade of petrol dispensed from that bowser, contain only the words and numbers-
 - a) "95 Unleaded Metal-free" for petrol grade RON 95;
 - b) "93 Unleaded Metal-free" for petrol grade RON 93; or
 - c) "91 Unleaded Metal-free" for petrol grade RON 91;
- (2) metal-containing unleaded petrol grade must be labelled with white lettering and numbering on a red background, and must, as appropriate for the grade of petrol dispensed from that bowser, contain only the words and numbers-
 - a) "95 LRP X added," for petrol grade RON 95, where X is represented as either "manganese" or "potassium" or "phosphorus";
 - b) "93 LRP X added" for petrol grade RON 93, where X is represented as either "manganese" or "potassium" or "phosphorus;" or
 - c) "91 LRP X added" for petrol grade RON 93, where X is represented as either "manganese" or "potassium" or "phosphorus;"
- (3) diesel must be labelled with white lettering and numbering on a black background, and must, as appropriate for the grade of diesel dispensed from that bowser, contain only the words-
 - (i) "standard diesel" for standard grade diesel; and
 - (ii) "low sulphur diesel" for low sulphur grade diesel.

Records to be kept by licensees

26 A licensee must keep records of purchase or sale transactions of petroleum products including—

- (1) certificates of compliance;
- (2) grades of petroleum product;
- (3) quantities of petroleum product;
- (4) documentation by which the physical receipt of a petroleum product can be linked to the order, purchase and payment for that batch of petroleum product;
- (5) results of any tests performed on a batch of petroleum product, including the details of that batch and the date of each test;
- (6) records by which the petroleum product tested can be traced back to its delivery docket; and
- (7) port of entry, in the case of a batch of imported petroleum product.

27 The records contemplated in regulation 26 must be -

- (1) retained for 5 years;
- (2) kept at the address registered with the Controller; and
- (3) disclosed to an inspector on request.

Transitional provisions and commencement

28 This Regulation comes into effect on 1 January 2006 provided that-

- (1) the provisions of regulations 4(2) and 6(2) commence on the first Wednesday in July 2006;
- (2) the provisions of regulations 8(1), 8(2) and 9 commence on the first Wednesday in April 2006;
- (3) the provisions of this Regulation relating to the labelling of petrol bowsers commence when the petrol dispensed by a bowser conforms to one of the permitted grades of petrol, or on the first Wednesday in April 2006, whichever event occurs first provided that before that event the label on bowsers dispensing metal-

containing unleaded petrol must state “Lead replacement petrol 95 contains metals,” “Lead replacement petrol 93 contains metals” or “Lead replacement petrol 91 contains metals” as the case may be; and

(4) the provisions of this Regulation relating to labelling of diesel bowsers commence when the diesel dispensed by a bowser conforms to one of the permitted grades of diesel, or on the first Wednesday in April 2006, whichever event occurs first.

29 A licensed manufacturer must not manufacture, for consumption in the Republic of South Africa, after midnight on 31 December 2005—

- (1) any petrol grade that is not in compliance with this Regulation; and
- (2) any diesel grade that is not in compliance with this Regulation.

30 A licensed manufacturer or wholesaler must not import petroleum products, after midnight on 31 December 2005, for consumption in the Republic of South Africa, that are not in compliance with this Regulation.

Offences and penalties

31 Any person performing a prohibited action or committing an offence under this Regulation shall be deemed to have committed an offence under the Act for each separate contravention of the Act.