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## GOVERNMENT NOTICE

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### DEPARTMENT OF MINERALS AND ENERGY

No. 1069

3 November 2006

**GUIDELINES GOVERNING THE RECOMMENDATIONS BY THE  
DEPARTMENT OF MINERALS AND ENERGY TO THE INTERNATIONAL  
TRADE ADMINISTRATION COMMISSION IN RESPECT OF THE  
IMPORTATION AND EXPORTATION OF CRUDE OIL, PETROLEUM  
PRODUCTS AND BLENDING COMPONENTS**

1. I, Ms. Buyelwa P. Sonjica, Minister of Minerals and Energy, hereby issue the Guidelines Governing the Recommendations by the Department of Minerals and Energy to the International Trade Administration Commission in respect of the Importation and Exportation of Crude Oil, Petroleum Products and Blending Components.

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RESPECT OF THE IMPORTATION AND EXPORTATION OF CRUDE  
OIL, PETROLEUM PRODUCTS AND BLENDING COMPONENTS**

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## PREAMBLE

Whereas the control of imports and exports of petroleum products is an integral part of the regulatory dispensation of the South African liquid fuels sector in that it advances the objectives of licensing under the Petroleum Products Act, 1977 (Act No. 120 of 1977);

Whereas the importation and exportation of crude oil and petroleum products is controlled by the International Trade Administration Act, 2002 (Act No. 71 of 2002), which is administered by the International Trade Administration Commission;

Whereas the Department of Minerals and Energy ‘advises the International Trade Administration Commission in the administration of the International Trade Administration Act, 2002 (Act No. 71 of 2002), as contemplated in section 21 of the said Act; and

Whereas these Guidelines form the basis on which the Department of Minerals and Energy will make recommendations to the International Trade Administration Commission.

## DEFINITIONS

Any term that has a meaning ascribed to it in the Petroleum Products Act, 1977 (Act No. 120 of 1977) and the International Trade Administration Act, 2002 (Act No. 71 of 2002) carries the same meaning in these Guidelines, and unless the context indicates otherwise-

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

“**blending component**” means any petroleum product component that is added, without further refining, when manufacturing petroleum products in order to enable such products to meet the required fuel specifications and standards. Such components include but are not limited to ethanol, butane, sweet naphtha, isomerate, alkylate, reformate and platformate;

“**HDSA wholesaler**” means a wholesaler that is owned and controlled by historically disadvantaged South Africans, which operates on a basis to meet all aspects of the Liquid Fuels Industry Charter and is licensed in terms of section 2B of the Act, and for the purposes of this definition-

- a. own means a majority shareholding position (i.e. 50% + 1 share); and
- b. control means the right to make unilateral and binding decisions;

“**ITAC**” means the International Trade Administration Commission established under section 7 of the International Trade Administration Act, 2002 (Act No. 71 of 2002);

“**levy**” means monies payable in terms of the Central Energy Fund Act, 1977 (Act No. 38 of 1977), the Road Accident Fund Act, 1996 (Act No. 56 of 1996) and the Customs and Excise Act, 1964 (Act No. 91 of 1964);

“**permit**” means a permit issued by ITAC in accordance with the provisions of the International Trade Administration Act, 2002 (Act No. 71 of 2002), permitting the importation or exportation of crude oil, petroleum products or blending components;

“**recommendation**” means a written recommendation from the Department of Minerals and Energy, signed by a duly authorised official and countersigned by the responsible Director, to ITAC, for an import or export permit to be issued;

## **IMPORTATION OF CRUDE OIL, PETROLEUM PRODUCTS AND BLENDING COMPONENTS**

- 1 The importation of crude oil, petroleum products and blending components will only be permitted if such importation will not conflict with the objectives under section 2B(2) of the Act.
- 2 No person may import crude oil, petroleum products or blending components without a permit issued by ITAC.
- 3 A permit for the importation of crude oil, petroleum products or blending components must not be issued unless ITAC is in receipt of a recommendation from the Department of Minerals and Energy.
- 4 Only licensed manufacturers and licensed HDSA wholesalers may apply for a recommendation to import petroleum products or blending components unless

elsewhere specified in these Guidelines. Provided that a licensed manufacturer may be permitted to import blending components and only the types of petroleum products specified in the manufacturing licence.

- 5 Any person may apply for a recommendation to import crude oil.
- 6 A permit may only be issued to the person in respect of whom the recommendation was made.

#### **IMPORTATION OF JET FUEL**

- 7 No person may import jet fuel without a permit issued by ITAC.
- 8 A permit for the importation of jet fuel must not be issued unless ITAC is in receipt of a recommendation from the Department of Minerals and Energy.
- 9 Only licensed manufacturers and licensed HDSA wholesalers may apply for a recommendation to import jet fuel unless elsewhere specified in these Guidelines, provided that any commercial airline company or representative thereof may apply for a recommendation to import jet fuel for their own consumption.

#### **IMPORTATION OF LIQUEFIED PETROLEUM GAS**

- 10 No person may import liquefied petroleum gas without a permit issued by ITAC.
- 11 A permit for the importation of liquefied petroleum gas must not be issued unless ITAC is in receipt of a recommendation from the Department of Minerals and Energy.
- 12 Only licensed manufacturers and licensed wholesalers may apply for a recommendation to import liquefied petroleum gas.

**EXPORTATION OF CRUDE OIL AND PETROLEUM PRODUCTS**

13 No person may export crude oil, petroleum products or blending components without a permit issued by ITAC.

14 A permit for the exportation of crude oil, petroleum products or blending components must not be issued unless ITAC is in receipt of a recommendation from the Department of Minerals and Energy.

15 The Department of Minerals and Energy must issue a recommendation to an applicant seeking to export crude oil, petroleum products or blending components unless, in the opinion of the Department of Minerals and Energy—

15.1 such export may result in a shortage of crude oil, petroleum product or blending component concerned; or

15.2 it is not in the public interest to issue such a recommendation.

16 Any person may apply for a recommendation to export crude oil, petroleum products or blending components.

**APPLICATIONS FOR IMPORT OR EXPORT RECOMMENDATIONS**

17 Applications for import or export recommendations must be made in writing to the Department of Minerals and Energy, by completing, in full, the relevant form supplied by ITAC.

18 Separate applications in respect of each petroleum product and each blending component must be submitted.

19 The procedure for the processing of applications, which is subject to change from time to time, is outlined in **Annexure A**.

20 The Department of Minerals and Energy must within 24 hours of receipt of an application issue a recommendation to ITAC and a copy thereof to the applicant, or decline to do so, in which case the reasons therefor must be provided.

21 Recommendations issued by the Controller may not be traded, bought or sold.

22 Recommendations are only valid for one month from the date of issue.

### **PAYMENT OF FUEL LEVIES**

23 All local fuel levies applicable on petrol, diesel and illuminating paraffin, except Value Added Tax, must be paid to the South African Revenue Services in line with its provisions as stipulated in "Part 2- EXCISE ACCOUNT (DA 159 and DA 160) AND PAYMENT TERMS" of the Regulations "Excise Procedures for the oil industry" promulgated in terms of the provisions of the Customs and Excise Act, 1964 (Act No. 91 of 1964).

### **REPORTING**

24 Licensed manufacturers and licensed wholesalers, in possession of a recommendation and permit to import or export the consignment contemplated in such recommendation and permit must inform the Department of Minerals and Energy, within seven (7) days of the petroleum product or blending component concerned entering or leaving South Africa, of the nature of such product or blending component, its CIF (Cost, Insurance and Freight) price and the volumes of the consignment concerned.

### **REVIEW**

25 These Guidelines will be reviewed –

25.1 from time to time; and

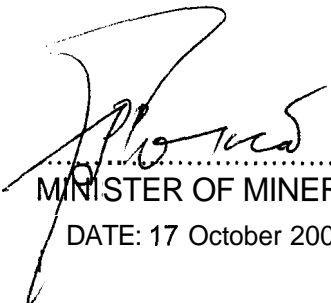
25.2 in consultation with stakeholders and affected parties.

### **COMMENCEMENT**

26 These Guidelines commence on the date on which they are signed by the Minister of Minerals and Energy. They supersede all documents of the Department of Minerals and Energy, which pertain to the issuing of permits for the importation and exportation of crude oil and petroleum products.

### **SHORT TITLE**

27 These Guidelines are called Import and Export Guidelines.



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MINISTER OF MINERALS AND ENERGY  
DATE: 17 October 2006

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