



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

MINISTRY OF MINES AND ENERGY

No. 112 1991

PETROLEUM PRODUCTS AND ENERGY ACT, 1990 (ACT 13 OF 1990): REGULATIONS RELATING TO THE PURCHASE, SALE, SUPPLY, ACQUISITION, USAGE, POSSESSION, DISPOSAL, STORAGE, TRANSPORTATION, RECOVERY AND RE-REFINEMENT OF USED MINERAL OIL

Under section 2(1) of the Petroleum Products and Energy Act, 1990 (Act 13 of 1990), I hereby make the regulations set out in the Schedule.

A. TOIVO YA TOIVO
MINISTER OF MINES AND ENERGY

Windhoek, 11 October 1991

SCHEDULE

Definitions

1. In these regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned by the Act, shall have that meaning, and -

“Act” means the Petroleum Products and Energy Act, 1990 (Act 13 of 1990);

“additive” means a chemical or chemical compound which may be added to new oil to improve its performance characteristics;

“bulk consumer” means a local authority as contemplated in section 111 of the Namibian Constitution, a *bona fide* farmer, a cartage or transport contractor and any other person who, during any period of six consecutive calendar months, purchases on an average more than 20 litres of new oil per calendar month;

“crude oil” means a naturally occurring mineral oil consisting essentially of a mixture of petroleum hydrocarbons;

“distributor” means any person, other than a reseller, who manufactures or distributes new oil and who in the course of or as part of his or her business sells it to any other person;

“foreign matter” means any solid or fluid matter foreign to or usually not an element of new oil, excluding any additive;

“new oil” means mineral oil which has been refined from either crude oil or used mineral oil and which may contain any additive, but which has not been used subsequent to such refining;

“permit” means a permit issued by the Permanent Secretary to any person in terms of regulation 9;

“re-refined oil” means new oil obtained from the re-refining of used mineral oil by a re-refiner;

“re-refiner” means any person who re-refines used mineral oil, whether for commercial purposes or not, and to whom a registration certificate has been issued in terms of regulation 8(4), or who in terms of regulation 8(6) is deemed to be carrying on such business;

“reseller” means a person who obtains new oil from a distributor for sale in the course of or as part of a business carried on by him or her;

“sales premises” means any place from where new oil or re-refined oil may be sold or offered for sale to resellers or consumers;

“used mineral oil” means all mineral oil withdrawn from its original use and contaminated by foreign matter through such use.

Application

2. These regulations shall apply only to persons who purchase, sell, supply, acquire, use, possess, store, transport, recover, re-refine or dispose of used mineral oil in Namibia.

Prohibition on disposal, contamination, usage and possession, storage and transportation in certain containers, of used mineral oil

3. No person shall, unless such act is authorized in terms of or under a provision of these regulations, in respect of used mineral oil in his or her possession -

- (a) discard, destroy or otherwise dispose of such oil;
- (b) intentionally or negligently further contaminate such oil with any foreign matter to a greater extent than it has already been contaminated through normal usage;
- (c) possess or store or transport such oil in any container other than a container which is suitable for preventing destruction, loss or waste thereof;
- (d) use such oil for any purpose other than -
 - (i) the treatment of animals;
 - (ii) the lubrication of machines or implements; or
 - (iii) the prevention of rust.

Possession of used mineral oil

4. (1) Unless any permit authorizes otherwise -

- (a) no person other than -
 - (i) a re-refiner;
 - (ii) a distributor;
 - (iii) subject to paragraph (b), a reseller;
 - (iv) subject to paragraph (b), a bulk consumer; and
 - (v) a person while transporting used mineral oil to a re-refiner, a distributor or a reseller,

shall have a larger quantity than 20 litres of used mineral oil in his or her possession for a continuous period exceeding 30 days; and

- (b) no reseller shall have a quantity larger than 5 000 litres, and no bulk consumer shall have a quantity larger than 2 000 litres of used mineral oil in his or her possession for a continuous period exceeding 30 days.

(2) Any person who is in possession of used mineral oil in excess of the quantity allowed to him or her in terms of subregulation (1) or in terms of any permit, shall supply such excess of used mineral oil to a re-refiner or a distributor or a reseller, or, if such supplier is a reseller, to a re-refiner or distributor.

(3) Any person in possession of any used mineral oil for any extended period authorized by permit, shall supply such used mineral oil to a re-refiner or a distributor or a reseller, or, if such supplier is a reseller, to a re-refiner or distributor, before or on the final day of such extended period and if such final day is a Sunday or public holiday, on the day immediately following such Sunday or public holiday.

(4) (a) No re-refiner, distributor, or, subject to paragraph (b), no reseller, as the case may be, may during normal trading hours refuse to accept any supply of used mineral oil referred to in subregulations (2) and (3), from any person referred to in those subregulations.

(b) No reseller may refuse to accept from any individual supplier a quantity of used mineral oil offered to him or her which does not exceed 20 litres at any one time unless such reseller is at the time of such offer to him or her in possession of a quantity of used mineral oil in excess of the quantity that he or she is permitted to possess in terms of or under any provision of these regulations.

Conditions of supply and sale of used mineral oil

5. (1) The supplying of used mineral oil to a reseller, a re-refiner or a distributor, as contemplated in regulation 4, shall take place on the sales premises of such reseller, re-refiner or distributor, as the case may be, and shall be effected, if the supplier wishes to sell such used mineral oil, at a price and subject to such other conditions of sale as the parties may agree upon: Provided that if the parties in any such case cannot come to an agreement in regard to the price or any other conditions of sale, the Minister shall determine the price or other conditions, as the case may be, in respect of the sale in question.

(2) The provisions of subregulation (1) shall not prevent the supply of used mineral oil to a re-refiner in terms of an agreement whereby such re-refiner re-refines the mineral oil concerned for compensation and thereafter delivers it to the supplier concerned.

6. The provisions of regulation 4(4) and regulation 5 shall also apply *mutatis mutandis* to the supply of used mineral oil by any person to any reseller, re-refiner or distributor, notwithstanding that such person at the time of such supply is not obliged to supply that used mineral oil in terms of any provision of these regulations.

Prohibition of certain agreements

7. No person may conclude any agreement -

(a) other than an agreement for the supply of used mineral oil contemplated in regulation 5(1) and an agreement contemplated in regulation 5(2), in terms whereof a party to the agreement is obliged to supply any used mineral oil to the other party to the agreement or his or her nominee; or

- (b) including an agreement for the supply of used mineral oil as contemplated in regulation 5(1), whereby a party to the agreement who supplies any used mineral oil to another party thereto, is obliged to purchase any other petroleum product from this latter party, or from any person nominated by him or her,

and any agreement which contains any such condition shall be void.

Registration of re-refiners and the certificate of registration

8. (1) No person shall, subject to the provisions of subregulation (4), operate a plant for the re-refining of used mineral oil, whether for commercial purposes or not, unless he or she has supplied the Permanent Secretary with written particulars of the following:

- (a) The location of the premises where the operation will be conducted;
- (b) the end product which will be produced by the operation; and
- (c) the purposes for which the end product will be used,

and unless he or she complies with the conditions of a certificate of registration as a re-refiner, which has been issued to him or her by the Permanent Secretary in terms of the provisions of these regulations.

(2) Any person wishing to obtain a certificate of registration shall apply to the Permanent Secretary in writing, furnishing the Permanent Secretary with the particulars referred to in subregulation (1).

(3) The Permanent Secretary shall consider any such application and may in his or her discretion issue or refuse a certificate of registration to the applicant.

(4) A certificate of registration shall be issued in such form as the Permanent Secretary may from time to time determine and subject to the following conditions and also to such additional conditions as the Permanent Secretary may in his or her discretion in any specific case determine and stipulate on such certificate:

- (a) An application for renewal or extension of the certificate shall reach the Permanent Secretary at least 30 days before the expiry date thereof, as stated on the certificate;
- (b) the certificate shall not be transferable or alienable to any other person without the written approval of the Permanent Secretary first having been obtained, which approval shall be endorsed on the certificate by the Permanent Secretary; and
- (c) the certificate may at any time be withdrawn by the Permanent Secretary, without prior notice to the certificate holder, should -
 - (i) the holder contravene any provision or condition thereof or fail to comply therewith;
 - (ii) the withdrawal be obligatory in terms of the provisions of the Act; or

(iii) the holder thereof contravene or fail to comply with any provision of the Act regarding used mineral oil, or any regulation made or notice issued in terms thereof.

(5) (a) Registration fees of a R100 shall be payable to the Permanent Secretary at the time a certificate of registration is issued to the applicant thereof.

(b) Such fees shall be payable in full for the applicable calendar year, even if the certificate of registration is issued during the course of such year.

(6) Any person who, at the date of commencement of these regulations operates an installation to re-refine used mineral oil, shall, within 60 days after the said date, supply the particulars referred to in subregulation (1) to the Permanent Secretary and shall, as from the date on which he or she handed or dispatched the said particulars to the Permanent Secretary and until a certificate of registration has been issued to him or her or been refused, be deemed to operate such installation under the authority of a certificate of registration.

Permits

9. (1) Any person wishing to obtain authorization to perform any act in connection with used mineral oil prohibited in terms of these regulations, or to perform any such act in a manner other than that provided for in these regulations, shall apply to the Permanent Secretary to obtain a permit in terms of these regulations.

(2) Any application for a permit or for the renewal of a permit, shall be submitted on the application form prescribed in Annexure A and any applicant shall, when so required, furnish the Permanent Secretary with any documentary proof or any additional information or statement required by the Permanent Secretary.

(3) The Permanent Secretary shall consider any such application and may, in his or her discretion -

(a) issue or refuse a permit to the applicant;

(b) record on a permit being issued any or all of the following matters, namely:

(i) The currency of such permit;

(ii) the premises upon which or the place in which the acts with regard to used mineral oil authorized by the permit may be performed;

(iii) the manner in which the used mineral oil in respect of which the permit is issued, may be dealt with.

(4) A permit shall be issued in the form which the Permanent Secretary may from time to time determine and subject to the following conditions and also to such additional conditions as the Permanent Secretary may in his or her discretion in any specific case determine and stipulate on such permit:

(a) An application for renewal or extension of the permit shall reach the Permanent Secretary not later than 30 days before the expiry date thereof, as stated in the permit;

- (b) the permit shall not be transferable or alienable to any other person without the written approval of the Permanent Secretary first having been obtained, which approval shall be endorsed on the said permit by the Permanent Secretary; and
- (c) the permit may at any time be withdrawn by the Permanent Secretary, without prior notice to the permit holder, should -
 - (i) the holder thereof contravene any provision or condition thereof or fail to comply therewith;
 - (ii) such withdrawal be obligatory in terms of the provisions of the Act; or
 - (iii) the holder thereof contravenes or fails to comply with any provision of the Act regarding used mineral oil, or any regulation made or notice issued in terms thereof.

Submission of statistics

10. Every re-refiner and any person who is a permit holder in terms of these regulations, shall furnish the Permanent Secretary not later than 28 February of each year with a statement in the form of Annexure B, with particulars with regard to the quantity of used mineral oil purchased, sold, obtained, re-refined or used by him or her, as the case may be, during the preceding year.

Compliance with other statutory provisions

11. Any certificate or permit issued in terms of these regulations shall not absolve the holder thereof from compliance with the requirements of any other law relating to the handling, storage, disposal, possession or usage of new mineral oil on any premises.

Submission of information

12. No person shall furnish false information or make any false statement knowing such information or statement to be false in connection with any document which he or she submits in terms of these regulations.

Repeal and saving

13. (1) The Regulations relating to the Purchase, Sale, Supply, Acquisition, Possession, Disposal, Storage, Transportation, Recovery and Re-refinement of Used Mineral Oil promulgated by Government Notice 48 of 1991 is hereby repealed.

(2) Any permit issued or deemed to have been issued in terms of the provisions of the regulations repealed by subregulation (1), shall be deemed to have been issued in terms of corresponding provisions of these regulations.

ANNEXURE A

REPUBLIC OF NAMIBIA

MINISTRY OF MINES AND ENERGY

PETROLEUM PRODUCTS AND ENERGY ACT, 1990

APPLICATION FOR A PERMIT REFERRED TO
IN REGULATION 9

- NB -1. Must be completed and dispatched to the Permanent Secretary:
Mines and Energy, Private Bag 13297, Windhoek, Namibia.
- 2. Separate application forms must be submitted in respect of each required concession.

A. Name of applicant/firm/instance

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Address

.....

B. Location of premises on which acts with regard to used mineral oil are to be performed and for which application is being made

.....

.....

C. Purposes or use of used mineral oil

.....

D. Method of use

.....

E. Quantity of used mineral oil to be possessed, used, stored or transported

.....

F. Period of possession, use, storage or transport

.....

G. Any other information/particulars regarding the Act in respect of which application is being made

.....

I, the undersigned, do hereby apply for a permit in respect of the required concession with regard to used mineral oil, as indicated above.

.....
Signature

.....
Date

ANNEXURE B

REPUBLIC OF NAMIBIA

MINISTRY OF MINES AND ENERGY

PETROLEUM PRODUCTS AND ENERGY ACT, 1990

ANNUAL STATISTICS WITH REGARD TO USED MINERAL OIL
REFERRED TO IN REGULATION 10

NB -1. Must be completed and dispatched to the Permanent Secretary:
Mines and Energy, Private Bag 13297, Windhoek, Namibia.

- 1. Name of certificate/permit holder
-
- Address
-
- 2. Certificate or permit no.
- Expiry date
- 3. Quantity of used mineral oil during the calendar year 19
- (a) purchased
- (b) obtained
- (c) re-refined
- (d) sold
- (e) used
- 4. Mention purposes for which used mineral oil declared in paragraph 3(c) has
been used
-
-

5. Any other information/particulars that the certificate or permit holder wishes to declare

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.....

.....
Signature

.....
Date
