

Statutory Instrument No. 29 of 2024

BOTSWANA ENERGY REGULATORY AUTHORITY ACT
(Cap. 74:11)

**BOTSWANA ENERGY REGULATORY AUTHORITY (PETROLEUM
PRODUCTS) REGULATIONS, 2024**
(Published on 11th March, 2024)

ARRANGEMENT OF REGULATIONS

REGULATION

PART I — *Preliminary*

1. Citation
2. Interpretation
3. Application of Regulations

PART II — *Licensing Procedures*

4. Application for licence to construct and operate petroleum pipeline, etc.
5. Application for licence to import petroleum product
6. Application for licence to export petroleum product
7. Licensing requirements
8. Issue of licence
9. Restrictions on import licence
10. Volume reconciliation requirements
11. Validity of licence
12. Application for renewal of licence
13. Application for transfer of licence
14. Change of name
15. Change of shareholding structure

PART III — *General Obligations of Licensee*

16. General obligations
17. Protection of lives and property
18. Compensation for loss suffered
19. Insurance
20. Maintenance of records, provision and disclosure of information

PART IV — *Environmental Protection*

21. Compliance with environmental laws and standards

PART V — *Technical Provisions*

22. Compliance with specifications and standards
23. Manhole covers to be colour coded
24. Forecourt design

25. Location of dispensing pumps
26. Earth bonding and installation of point of sale printer
27. Maintenance of oil interceptors and monitoring wells
28. Building designs and canopies
29. Electrical standby generator or alternative power source
30. Petroleum price billboards
31. Warning signs
32. Fire precaution
33. Control of petroleum product spill
34. Decommissioning procedure
35. Site restoration
36. Transportation of petroleum products
37. Maintenance of internal monitoring system

PART VI — Petroleum Sampling

38. Sampling process
39. Preliminaries to sampling
40. Collecting samples
41. Sample collection form to be signed
42. Supervisor or driver of a transport vessel to witness and facilitate the sampling exercise

PART VII — Testing Procedures

43. Selection of qualified laboratories
44. Re-testing process
45. Right to witness re-test

PART VIII — Procedure on Inspection of Regulated Facility or Transport Vessel

46. Procedure for inspection of a regulated facility or transport vessel
47. Obligation of inspector during inspection
48. Prohibited acts against inspectors

PART IX — Penalties for Non-Conforming Products

49. Penalties for non-conforming products
50. Reference to Revenue Service or relevant authority

PART X — Petroleum Products Pricing

51. Price reviews
52. Retail pump price

PART XI — Compliance and Enforcement

53. Notification of offence
 54. Issuance of compliance orders
 55. Offences and penalties
 56. Savings and transitional provisions
- SCHEDULES

IN EXERCISE of the powers conferred on the Minister of Minerals and Energy by section 74 (1) of the Botswana Regulatory Authority Act and after consultation with the Botswana Energy Regulatory Authority, the following Regulations are hereby made —

PART I — *Preliminary*

1. These Regulations may be cited as the Botswana Energy Regulatory Authority (Petroleum Products) Regulations, 2024. Citation
2. In these Regulations, unless the context otherwise requires — Interpretation
- “approved specification” means any specification or standard in relation to a petroleum product applied by the Authority and as approved by the Botswana Bureau of Standards pursuant to the Standards Act; Cap. 43:07
- “Authority” has the same meaning assigned to the term under the Act;
- “bulk consumer” means a consumer who buys petroleum products in bulk quantity for own use or any other use other than reselling;
- “bulk quantity” means a single lot of not less than 200 litres of a petroleum product;
- “Competition and Consumer Authority” means the authority established under the Competition Act; Cap. 46:09
- “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;
- “Department” means the department responsible for environmental issues;
- “depot” means a petroleum storage facility of a capacity of more than 5 000 litres that has been constructed and meets the specifications specified under the Standards Act, in respect of which wholesale business is carried out and includes —
- (a) a building;
 - (b) a storage tank;
 - (c) a pipeline;
 - (d) a pump house;
 - (e) a loading gantry; and
 - (f) a fire fighting system;
- “good petroleum industry practice” means any conduct related to a petroleum product intended to preserve product quality and meets accepted health, safety and environmental requirements;
- “import quantity” means the total quantities or volume of petroleum products imported in Botswana for consumption in any given year;
- “incident” means —
- (a) an event that involves a leakage of more than 200 litres at any point in time of a petroleum product from a regulated facility;
 - (b) a spill of more than 200 litres 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 regulated activity;
 - (d) a fire or an event incidental to a fire resulting from an action that is related to a regulated activity;
 - (e) an event that results in an emergency shutdown of a regulated facility; and

(f) 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 inspection as required under the Act and regulated sector legislation;

“licensee” means a person issued with a licence under these Regulations to trade in petroleum products;

“monthly requirements” means monthly forecasted consumption volume of petroleum products which shall be validated as per the Operational Rules set by a public body;

“non-conforming product” means a petroleum product that does not meet the approved specifications;

“petroleum” means petroleum crude;

“petroleum products” means an organic compound, pure or blended which is derived from the refining or processing of petroleum crude oil or synthetic fuel and includes —

(a) asphalts, bitumen, petroleum coke and other residual product;

(b) bunkers or heavy residual fuel oils for combustion 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 mixture of these gases whether in gaseous or liquefied state;

(d) gas oil or automotive diesel, biodiesel, industrial marine diesels or synthetic diesel;

(e) gasoline, bio-naphtha or bio-ethanol product;

(f) kerosene or other similar oils for illumination or combustion applications;

(g) lubricating oils, base oil or refined and blended finished oil; or

(h) turbo fuels for jet propulsion engines;

“petroleum products quota allocation” means the percentage of import quantity of petroleum product, allocated to a public body in accordance with the Botswana Energy Regulatory Authority (Importation of Petroleum Products) (Quota Allocation), Order;

“petroleum product spill” means the unlawful discharge of a petroleum product of more than 200 litres into land, water or any structure or a thing;

“public body” has the same meaning assigned to the term under the Act;

“regulated activity” means an activity licensed under section 37 of the Act;

“regulated entity” means a licensee, operator, importer, exporter, retailer, wholesaler, bulk consumer and any other entity involved in the provision of service or activity in the regulated sector;

“regulated facility” means a receiving and discharging facility, depot, or a retail service station;

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

“Revenue Service” means the Botswana Unified Revenue Service established under the Botswana Unified Revenue Service Act

Cap. 74:11
(Sub. Leg.)

Cap. 53:03

“supervisor” means an operator or any other person responsible for the management and monitoring of a regulated facility;

“transport vessel” means a motor vehicle, machinery, ship, truck, railway wagon barge or any other means of transporting a petroleum product excluding transportation by pipeline; and

“wholesaler” means a person or a regulated entity that buys and sells petroleum products in bulk quantity to retailers and bulk consumers.

3. These Regulations shall regulate petroleum sector activities and any other related activities.

Application of Regulations

PART II – Licensing Procedures

4. (1) A person who wishes to construct and operate a petroleum pipeline, transport a petroleum product over a pipeline, store and operate a storage facility for a petroleum product, operate a loading or a discharge facility, operate a retail service station or manufacture a petroleum product shall apply to the Authority, which application shall be —

Application for licence to construct and operate petroleum pipeline, etc.

(a) in Form A set out in Schedule 1; and

(b) accompanied by a non-refundable fee set out in Schedule 3.

(2) Any person who contravenes subregulation (1), commits an offence and is liable to a penalty specified under section 73 of the Act.

5. (1) The Authority shall grant a licence to import petroleum products in accordance with the petroleum products quota allocation to a —

Application for licence to import petroleum product

(a) public body; and

(b) regulated entity that is majority citizen owned company.

(2) A regulated entity that is majority citizen owned company that wishes to import petroleum products shall apply to the Authority, which application shall be —

(a) in Form B set out in Schedule 1; and

(b) accompanied by a non-refundable fee set out in Schedule 3.

(3) Where the Authority issues the licence, the licensee shall —

(a) import a petroleum product in quantities as allocated in the petroleum products quota allocation;

(b) import petroleum product in quantities not less than 160 000 litres per month;

(c) transport a petroleum product in a container or a vessel that conforms to applicable standards, these Regulations and any relevant regulated sector legislation;

(d) ensure that the quality of a petroleum product imported meets the specifications specified in the applicable standards;

(e) produce documentary evidence when required showing that the imported petroleum product has been tested and conforms to the required, product quality; and

(f) comply with any other written law that governs importation.

(4) Notwithstanding subregulation (3) a —

(a) public body shall be permitted to import petroleum products in volumes in excess of the quota allocated to meet the national demand as may be required; and

(b) person shall not require a licence to import a petroleum product of quantities below 200 litres which is for his or her own use.

(5) Any person who contravenes this regulation commits an offence and is liable to a penalty specified under section 73 of the Act.

Application for
licence to
export
petroleum
product

6. (1) A person who wishes to export a petroleum product shall apply to the Authority, which application shall be —

- (a) in Form C set out in Schedule 1; and
 - (b) accompanied by a non-refundable fee set out in Schedule 3.
- (2) Where the Authority issues the licence, the licensee shall —
- (a) export a petroleum product in bulk quantity;
 - (b) transport a petroleum product in a container or a vessel that conforms to applicable standards, these Regulations and any relevant regulated sector legislation;
 - (c) export a petroleum product in accordance with the Act, these Regulations and other applicable laws;
 - (d) comply with all exportation requirements; and
 - (e) comply with the lawful direction or requirement of the Authority.

(3) Notwithstanding subregulation (1), a person shall not require a licence to export a petroleum product of quantities below 200 litres which is for his or her own use.

(4) Any person who contravenes this regulation commits an offence and is liable to a penalty specified under section 73 of the Act.

Licensing
requirements

7. The Authority shall not issue a licence under these Regulations to an applicant unless the applicant —

- (a) meets the following technical requirements —
 - (i) has a storage depot or a hospitality agreement with another licensee,
 - (ii) has the necessary requisite skilled personnel,
 - (iii) produces engineering drawings certified by a registered engineer registered with the Engineering Registration Board including site layout, and
 - (iv) produces an environmental authorisation or an exemption issued by the Department;
- (b) produces the following documents as evidence of financial capability —
 - (i) a copy of the most recent audited financial statements or management accounts which has been certified by a registered accountant registered with the Botswana Accountancy Oversight Authority,
 - (ii) where a company is reliant on parent company funding, a copy of the corporate parent's most recent audited consolidated accounts or a consolidated proforma balance sheet for the parent company which has been certified by a registered accountant registered with the Botswana Accountancy Oversight Authority,
 - (iii) a copy of —
 - (aa) an executed commercial loan,
 - (bb) an overdraft agreement,
 - (cc) a director or shareholder loan agreement,
 - (dd) a parent company loan agreement, or
 - (ee) a parent company guarantee,as evidence of a funding arrangement, and
 - (iv) a bill of quantities certified by a registered quantity surveyor registered with the Quantity Surveyors Registration Council, in case of a construction application;

- (c) produces evidence that a regulated facility has been inspected and certified by an inspector and is in a properly functioning condition;
- (d) produces proof of requisite ownership or usage rights over the principal regulated facility to be used to perform the activity; and
- (e) has adequate and serviced firefighting equipment in accordance with the applicable standards and laws.

8. (1) The Authority shall, in making a decision to grant or reject a licence Issue of licence
take into consideration —

- (a) the licensing requirements set out in regulation 7;
- (b) compliance to land ownership and land use laws;
- (c) any objection or representation received from the public pursuant to section 40 (4) of the Act;
- (d) the applicant's record of compliance with the Act, these Regulations and other regulated sector legislation;
- (e) the economic efficiency and benefit to the applicant and the public in general;
- (f) compliance of a regulated facility on matters including —
 - (i) safety,
 - (ii) health,
 - (iii) security,
 - (iv) handling of hazardous substances, and
 - (v) environmental protection; and
- (g) any other matter relevant to the orderly conduct of a regulated activity in Botswana.

(2) The Authority may, where it is satisfied that the applicant meets all the requirements under these Regulations, issue the applicant with a licence in Form A set out in Schedule 2.

(3) The Authority may reject an application for a licence where it determines that the applicant does not meet the requirements set out under subregulation (1).

(4) The Authority shall, in the event that it rejects an application for a licence under subregulation (3), notify the applicant, in writing of its decision within 14 days from the date the decision is made, including the reasons thereof.

9. (1) A person shall not import petroleum products except as provided for Restrictions on import licence
in the petroleum products quota allocation.

(2) A regulated entity, except a regulated entity that is majority citizen owned company and a wholesaler, shall source their petroleum products requirements from a public body.

(3) Notwithstanding subregulation (2), a regulated entity that is a majority citizen owned company may —

- (a) source their petroleum products requirements from a public body; and
- (b) supply petroleum products to bulk consumers.

(4) A regulated entity and a wholesaler shall not engage in any activity that may deceive, mislead or have the effect of deceiving or misleading the Authority or unduly benefit the regulated entity or a wholesaler with respect to —

- (a) sourcing, importation and supply of petroleum products;
- (b) shareholding structure;
- (c) operation or branding of retail sites; or
- (d) any form of fronting or malpractice that may be identified by or come to the attention of the Authority.

(5) Any person who contravenes this regulation commits an offence.

Volume reconciliation requirements

10. (1) A regulated entity and a wholesaler shall submit to the Authority its projected annual consumption requirements of petroleum products, split into three months rolling forecast.

(2) The forecasts submitted under subregulation (1) shall indicate where the monthly consumption requirements of petroleum products of a regulated entity and a wholesaler shall be purchased from.

(3) For the avoidance of doubt, forecasts submitted by a regulated entity that is not majority citizen owned company shall indicate that 100 per cent of its monthly consumption requirements of petroleum products shall be sourced from a public body.

(4) A regulated entity and a wholesaler shall, by the fifth calendar day of the month submit to the Authority, reconciliations accompanied by evidence of volumes of petroleum products sourced from a public body against their monthly requirements.

(5) A public body shall, by the fifth calendar day of the month, submit to the Authority, reconciliations accompanied by evidence of volumes of petroleum products imported against national requirements.

(6) Any person who contravenes this regulation commits an offence.

Validity of licence

11. The validity of a licence issued under regulation 8 (2) shall be subject to the licensee complying with the terms and conditions of the licence.

Application for renewal of licence

12. (1) A licensee who wishes to renew his or her licence shall apply to the Authority for the renewal of a licence, which application shall be —

(a) in Form A set out in Schedule 4; and

(b) accompanied by an application fee set out in Schedule 3.

(2) A licensee shall submit the application under subregulation (1) to the Authority six months before the expiry of the licence.

(3) The Authority shall, while making a decision whether to grant or reject an application for renewal of a licence, consider the applicant's compliance to the Act, relevant regulated sector legislation, these Regulations and terms and conditions of the licence which is due to expire.

(4) The Authority shall not renew the licence of an applicant who has failed to comply with any order given by the Authority.

Application for transfer of licence

13. (1) An application for the transfer or assignment of a licence in terms of section 47 (2) of the Act shall be —

(a) made in Form A set out in Schedule 5; and

(b) accompanied by an application fee set out in Schedule 3.

(2) Notwithstanding subregulation (1), the Authority shall not consider an application for the transfer or assignment of a licence, unless the application is endorsed by the transferee or assignee.

(3) The Authority shall, after receipt of the application under subregulation (1), evaluate the application to verify its completeness and legality of information contained therein.

(4) The Authority shall publish a notice of the application for the transfer or assignment of a licence in at least two newspapers of wide circulation, one in English and another in the Setswana language.

(5) The notice under subregulation (4), shall invite members of the public to submit comments and representations within 14 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 expiration of the notice in subregulation (5), evaluate the application together with comments received and make a decision whether to grant or deny the application for transfer or assignment of a licence at the case may be.

(7) The costs for publication of the notice under subregulation (4) shall be borne by the Authority.

14. (1) A licensee who has changed his or her name after being issued with a licence shall, within seven days after such change, notify the Authority, in writing,

Change of name

(2) The notification under subregulation (1), shall be accompanied by a certificate of change of name issued by the relevant authority.

15. A licensee shall, when notifying the Authority of a change in ownership in accordance with section 49 of the Act, submit the following documents —

Change of shareholding structure

- (a) a covering letter addressed to the Chief Executive Officer;
- (b) a duly signed and stamped deed of share transfer;
- (c) the current shareholding structure approved by the Companies and Intellectual Property Authority;
- (d) a tax clearance certificate from the Revenue Service; and
- (e) a letter of clearance from the Competition and Consumer Authority where applicable.

PART III – *General Obligations of Licensee*

16. (1) A licensee shall inform the Authority within 12 hours after the occurrence of a dangerous situation or incident at a regulated facility.

General obligations

(2) The notification under subregulation (1), shall comprise of the steps taken or proposed to be taken by a licensee to remedy such dangerous situation or incident or to eliminate or minimise any danger arising from such dangerous situation or incident.

(3) A licensee shall —

- (a) ensure the safe disposal of any petroleum product and waste petroleum product;
- (b) not keep fireworks or any other instrument or a product in or near a regulated facility that might pose a risk of fire or otherwise;
- (c) ensure that his or her petroleum product complies with the approved specifications;
- (d) not decommission a regulated facility contrary to the provisions of the Act, relevant regulated sector legislation and these Regulations;
- (e) ensure that a supervisor is present at a regulated facility at all times and in his or her absence any person employed or acting as his or her agent to perform his or her duties;
- (f) prior to effecting any major replacement or maintenance to a regulated facility or a part thereof, notify the Authority not less than 14 days prior to commencing such replacement or maintenance;
- (g) ensure that all equipments at a regulated facility are calibrated for correct measurements and are in good working condition in accordance with approved specifications and applicable laws;
- (h) pursuant to the written directions of the Authority, monitor, record and reconcile all stocks of petroleum products delivered to, stored in and dispensed from a regulated facility and retain such records for not less than 12 months and make the same available to the Authority on demand;

- (i) prepare a weekly stock position of a petroleum product in a regulated facility as shall be specified, in writing by the Authority where necessary;
- (j) promptly notify the Authority of any apparent loss or gain of a petroleum product that is outside normal operating patterns;
- (k) maintain and make available to the Authority on demand, documentary evidence demonstrating that all electrical equipment and installations in a regulated facility relevant to the —
 - (i) receipt,
 - (ii) handling,
 - (iii) storage, and
 - (iv) 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, the Act and relevant regulated sector legislation;
- (l) not abandon a regulated facility other than in accordance with the Act, relevant regulated sector legislation, these Regulations or directions of the Authority;
- (m) display in a conspicuous place at a regulated facility, a licence or a true copy thereof, duly certified by the Authority;
- (n) print its licence number on all accounting documents employed in its regulated activity, including invoices, delivery notes and receipts;
- (o) not engage in any activity that may distort or interfere with fair competition rules; and
- (p) notify the Authority —
 - (i) as soon as practicable if he or she is unable to conduct his or her regulated activity, and
 - (ii) as soon as practicable, but in any event not later than 30 days, after he or she becomes aware of the fact that the conduct of his or her regulated activity may lead to the breach of any of these Regulations or materially affect services to customers and consumers.

(4) Any person who contravenes this regulation commits an offence.

Protection of
lives and
property

17. (1) A licensee 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 licensee shall dispose of a waste petroleum product in a manner and at a place intended for the safekeeping and dumping of such products in accordance with applicable standards and laws.

(3) A licensee shall appoint at least one employee qualified in health, safety and environment to address and be responsible on health, safety and environmental matters and obligations related to the regulated activity.

Compensation
for loss suffered

18 (1) Without prejudice to the rights and obligations given under any laws, any person who suffers loss as a result of a regulated activity shall —

- (a) lodge a complaint with a licensee whose regulated activity has caused such loss with a view to reaching an amicable settlement; and
- (b) immediately notify the Authority of the complaint.

(2) In the event that the parties do not reach a settlement within 14 days, the complainant may refer the matter to the Authority for a decision.

(3) The Authority shall deal with the complaint under subregulation (1) in accordance with the provisions of the Act and the Botswana Energy Regulatory Authority (Complaints Settlement Procedure) Regulations.

Cap. 74:11
(Sub. Lcg.)

19. A licensee shall ensure that he or she procures and maintains adequate public liability insurance.

Insurance

20. A licensee shall —

- (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.

Maintenance of records, provision and disclosure of information

PART IV — *Environmental Protection*

21. (1) A licensee shall comply with the requirements of applicable environmental laws and standards related to a regulated facility.

Compliance with environmental laws and standards

(2) A licensee shall, subject to the applicable law —

- (a) carry out an environmental impact assessment before establishing a regulated facility or making a major improvement to an existing regulated facility;
- (b) take all necessary preventive measures to avoid pollution resulting from operating its dispensing pumps, transfer pumps, storage tanks or other equipment at the regulated facility;
- (c) observe strict environmental, health, and industrial safety standards;
- (d) perform an environmental audit related to a regulated activity in accordance with applicable law; and
- (e) have monitoring wells and bund walls in compliance with applicable standards.

(3) In this regulation, "major improvement" means an improvement that is aimed at —

- (a) expanding or reducing the size of a regulated facility; or
- (b) increasing or reducing the number of storage tanks.

PART V — *Technical Provisions*

22. (1) A licensee shall comply with the approved specifications pertaining to the handling, storage and composition of a petroleum product which is consistent with the provisions of the Act, the relevant regulated sector legislation and these Regulations.

Compliance with specifications and standards

(2) A licensee shall not deviate from any approved specification prior to the approval of the Authority.

(3) The Authority shall not grant an approval to deviate from any approved specification unless it is satisfied that such deviation —

- (a) is in the public interest; and
- (b) shall not negatively affect public safety and the environment.

(4) A licensee shall not mix or blend any petroleum products unless authorised to do so, in writing, by the Authority.

(5) A licensee shall not use —

- (a) any container to store or convey a petroleum product unless such container is —

- (i) leak and spill proof for, and
 - (ii) suitable and safe for, storage and conveyance of a petroleum product in accordance with applicable standards; and
 - (b) a container which does not comply with the requirements of the approved specifications for storing a petroleum product.
 - (6) Any person who contravenes this regulation commits an offence.
- Manhole covers to be colour coded** **23.** A licensee dealing in the storage of petroleum products shall, in order to facilitate identification especially during product deliveries into underground storage tanks, ensure that the storage tanks, manhole covers and slabs have the following colour coding, which colour shall correspond to the pump nozzles —
- (a) gasoline or petrol – green or red;
 - (b) kerosene or illuminating paraffin – blue; and
 - (c) automotive gas oil or diesel – yellow or black.
- Forecourt design** **24.** A licensee shall ensure that the forecourt of a retail service station is designed in accordance with applicable standards to —
- (a) ensure sufficient drainage;
 - (b) enable a customer to get on and off the area safely and rapidly; and
 - (c) take maximum opportunity to use, add-on facilities such as convenience shops, lubricant or wash bay, vulcanising center, tyre alignment, air, water and balancing facilities for wheels.
- Location of dispensing pumps** **25.** (1) A licensee shall ensure that dispensing pumps at a retail service station are properly located to allow —
- (a) full visibility of dispensing pumps to approaching customers;
 - (b) full visibility of dispensing pumps from the supervisor’s office for security as well as overall control and where this cannot be achieved due to design constraints, security cameras shall be used; and
 - (c) easy access to dispensing pumps.
- (2) A licensee shall ensure that —
- (a) the forecourt or drive ways of a retail service station are constructed using concrete, pavement blocks or asphalt and a provision made for a level bay to allow for accurate measurements of petroleum products;
 - (b) a crash barrier is installed around a pump for protection of a pump; and
 - (c) the fuelling and offloading areas of a retail service station are constructed out of hard surface or concrete to protect the environment from petroleum product spills.
- Earth bonding and installation of point of sale printer** **26.** A licensee shall ensure that the —
- (a) offloading area is installed with earth bonding wire and maintained as required by the applicable laws or standards; and
 - (b) dispensing pumps are connected to the point of sale printer and maintained as required by the applicable laws or standards.
- Maintenance of oil interceptors and monitoring wells** **27.** A licensee shall ensure that a retail service station has —
- (a) an oil interceptor and a monitoring well;
 - (b) a fuelling area and a discharge for the drainage system is connected to the regulated facility oil interceptor; and
 - (c) a hydrocarbon content in effluent from the oil interceptor does not exceed 100 parts per million.
- Building designs and canopies** **28.** (1) A licensee shall ensure that all buildings at a retail service station are —
- (a) designed and constructed to allow safe cash handling system, drop safes and night-time pay windows; and

- (b) fitted with adequate number of security cameras at areas with high security risks.
- (2) A licensee shall ensure that —
 - (a) a canopy at a retail service station —
 - (i) is constructed using non-combustible materials,
 - (ii) is above hazardous areas related to dispensing equipment, and
 - (iii) has a minimum height from forecourt finish level in accordance with applicable standards;
 - (b) illumination provided at a retail service station allows clear visibility for operation and security purposes at night; and
 - (c) every luminary installed at a retail service station is suitably explosion protected.

29. A licensee shall ensure that —

- (a) a standby electrical power generator or any alternative power source with a capacity matching the retail service station electrical power requirements is installed to provide power to cover operations in cases of power outages; and
- (b) an emergency switch is installed on all sites to cut-off power supply to all dispensing pumps in case of emergency situation such as petroleum product spill or fire.

Electrical
standby
generator or
alternative
power source

30. (1) A licensee shall —

- (a) erect conspicuously at a retail service station, petroleum price billboard as a free-standing structure or as part of the prime sign with the minimum dimensions of —
 - (i) length – 2.0 metres,
 - (ii) breadth – 1.2 – 1.5 metres, and
 - (iii) thickness – 0.2 metres; and
- (b) ensure that the base of the petroleum price billboard shall not be less than three meters high from ground level.

Petroleum price
billboards

(2) The prices of petroleum products on offer for sale at a retail service station shall be displayed on the petroleum price billboard and the unit price of each petroleum product shall appear in Pula per litre.

(3) The nature of a petroleum products billboard may include neon or electronic messaging:

Provided the prices are clearly legible to customers approaching a retail service station from a minimum distance of 50 metres.

31. (1) A licensee shall ensure that safety signs and symbols that are compliant with the applicable standards are boldly displayed at a regulated facility to communicate to customers, visitors and attendants.

Warning signs

- (2) Notices and safety signs and symbols under subregulation (1), shall be —
 - (a) installed in the vicinity of dispensing pumps, underground tanks, filling points and vent pipes; and
 - (b) conspicuous from a distance of three to five metres.

(3) A licensee shall ensure that an underground tank's identification includes the following information —

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

32. (1) A licensee shall —

Fire pr

- (a) ensure that a building, road and structure used in connection with a regulated facility is designed, constructed, equipped and maintained —
 - (i) in such a way as to prevent fire or explosion, and
 - (ii) so as to minimise the harmful effects of fire or explosion if they occur;
 - (b) ensure that personnel involved in storing, handling and dispensing of a petroleum product exercises caution in respect of anything that may cause fire or an explosion and that such personnel shall comply with the relevant law on matters related to the fire and explosion; and
 - (c) clearly indicate a place at the regulated facility where a petroleum product is handled or stored.
- (2) A licensee shall make reasonable effort to ensure that a person shall not throw, leave or create any open or naked flame, spark or flame or any burning or smouldering material on a regulated facility.
- (3) A licensee shall ensure that a person shall not —
- (a) load a petroleum product into a vehicle while the engine of the vehicle is running; and
 - (b) receive or make a call from a cellular telephone or any other electronic communication apparatus within a regulated facility except in places specifically designated for such activity.
- (4) A licensee shall take adequate precautions to prevent the outbreak of fire when storing, keeping, handling, conveying, using or disposing of a petroleum product.
- (5) A licensee shall provide adequate fire fighting equipment and maintain such equipment in good working condition in accordance with these Regulations, applicable law and standards and the directions issued by the Authority.
- (6) A licensee shall —
- (a) position the fire fighting equipment in an accessible place at a regulated facility; and
 - (b) in any event not less than once a year, test the fire fighting equipment in accordance with the applicable law.
- (7) A licensee shall establish a fire emergency plan to be employed in the event of a fire at a regulated 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 assembly points and the tasks of employees in the event of fire;
 - (b) provide for the training of employees on fire safety, 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.
- (8) Any person who contravenes this regulation commits an offence.

Control of
petroleum
product spill

Cap. 65:06

33. (1) A licensee shall, in the event of a petroleum product spill —

- (a) inform the Authority about such spill, as soon as practicable and not more than 12 hours after the occurrence of such spill; and
- (b) take all the necessary steps in accordance with the provisions of the Waste Management Act and applicable standards as may be necessary to clean up such spill.

(2) Where a licensee fails to comply with subregulation (1), the Authority may, by notice in writing, order the licensee to take such steps as the Authority may require in order to clean up a petroleum product spill at the licensee's cost.

(3) A licensee who fails to comply with an order of the Authority issued under subregulation (2), commits an offence.

(4) Any person who is affected by any spill of a petroleum product and seeks redress shall —

(a) lodge a complaint with a licensee who caused such spill with a view to reach an amicable settlement; and

(b) immediately notify the Authority of the complaint.

(5) In the event a settlement is not reached under subregulation (4), the person who is affected by the spill may lodge a complaint with the Authority for compensation from the licensee who is responsible for the spill.

(6) The Authority shall deal with a complaint under subregulation (5) in accordance with the provisions of the Act and the Botswana Energy Regulatory Authority (Complaints Settlement Procedure) Regulations.

34. (1) The Authority shall decommission a regulated facility —

(a) after a receipt of a written application from a licensee;

(b) where it is satisfied that a regulated facility has been abandoned by a licensee for a period of not less than three months; or

(c) where it is satisfied that the continued operation of such regulated facility may endanger the safety or health of a person or the safety of a person's property.

(2) A licensee who is desirous of decommissioning a regulated facility shall notify the Authority not less than 30 days prior to such decommissioning in order to enable the Authority to make necessary inspections and to issue the necessary approvals.

(3) A licensee or the owner of a regulated facility shall within one year from the date of completion of construction of the regulated facility or grant of a licence, whichever comes first, submit to the Authority for approval a decommissioning plan substantiating the following —

(a) the intended rehabilitation plan;

(b) bill of quantities of planned decommission approved by a registered quantity surveyor; and

(c) the intended methods to be used during decommissioning.

(4) The Authority shall, within 45 days from the date of receipt of the plan submitted in subregulation (3), approve the plan with such conditions as it considers fit.

(5) A licensee or the owner of a regulated facility shall, within five years from the date of effective operation, pay to the Authority such sum of money as shall be determined by the Authority as decommissioning costs and the same shall be kept in trust by the Authority for the purpose of decommissioning a regulated facility.

(6) The amount to be paid under subregulation (5), shall be determined by the Authority as per the bill of quantity and any prevailing condition as the Authority considers necessary.

(7) Notwithstanding subregulation (5), if the decommissioning costs exceeds the funds in trust of the Authority, a licensee shall pay all the extra costs associated with the decommissioning of a regulated facility, whether such decommissioning has been done following a request by the licensee or by order of the Authority.

(8) A licensee or owner of a regulated facility shall as the case may be, update the decommissioning plan to align it with techniques and methods prevailing at a particular time.

Decommissioning
procedure

Site restoration

35. (1) The Authority shall, after confirming that the area where a regulated facility is located has been restored to its original and natural state by a licensee, issue the licensee with a certificate of compliance.

(2) In this regulation, "restore" means to —

- (a) return the area where a regulated facility is located to its original and natural state as it was prior to the installation of such regulated facility; or
- (b) render the area where a regulated facility is located or part thereof, compatible with its intended after-use, including —
 - (i) removing buildings, structures, plants and debris,
 - (ii) establishing compatible contours and drainage,
 - (iii) replacing top soil,
 - (iv) re-vegetation,
 - (v) slope stabilisation,
 - (vi) infilling of excavations, or
 - (vii) complying with requirements of applicable environmental laws.

(3) The Authority shall before issuing a certificate of compliance under subregulation (1), consult the Department or any other relevant authority.

Transportation
of petroleum
products

36. (1) A person licensed to transport petroleum products shall comply with applicable codes and standards on safety, hazardous substances, security, health and environment and shall in that regard —

- (a) ensure that a transport vessel follows the assigned delivery route;
- (b) display his or her licence or a certified true copy on a conspicuous place on each transport vessel;
- (c) retain for not less than six months and make available to the Authority on demand, records of its transportation service;
- (d) procure and maintain in force, a valid insurance cover in respect of all liabilities that may arise from the conduct of its transportation service;
- (e) not keep or cause not to be kept, fireworks or any other instrument or product other than petroleum products near a transport vessel that might pose a risk of fire;
- (f) keep and conserve the following documentation that identifies and confirms its right to conduct transportation service in a document box —
 - (i) invoices,
 - (ii) delivery note, for local delivery, and
 - (iii) for transit goods, a delivery note and other documentations certifying that the goods transported are for transit; and
- (g) monitor, record and reconcile all stocks of petroleum products delivered to, stored in or dispensed from its transport vessel.

(2) A person licensed to transport petroleum products shall ensure that each transport vessel is inspected and vetted by the Authority before it commences transportation services.

(3) A person licensed to transport petroleum products shall not employ a driver to transport petroleum products unless the driver has —

- (a) a valid driver's licence; and
- (b) undergone a special training and has received a permit to transport petroleum products from an institution approved by the Authority.

(4) A person licensed to transport petroleum products shall, in relation to technical and safety requirements —

- (a) conduct its transportation service in compliance with the technical requirements established by the applicable law;
 - (b) take such precautions and exercise reasonable care when loading, handling, off-loading, delivering, using or disposing of petroleum products to avoid —
 - (i) endangering the safety or health of any person,
 - (ii) placing any property at risk, or
 - (iii) creating immediate risk of significant environment harm;
 - (c) conduct periodic technical inspections and tests on the transport vessel pursuant to applicable technical safety and environmental standards and applicable law;
 - (d) ensure the safe disposal of a petroleum products;
 - (e) mark or engrave its transport vessel with safety warning signs in accordance with good petroleum industry practice;
 - (f) maintain and on demand, make available to the Authority documentary evidence that all electrical equipment and installations relevant to the conduct of its transportation service comply with the relevant standards, codes and applicable law;
 - (g) not load any inflammable or potentially inflammable materials in a transport vessel apart from petroleum products;
 - (h) ensure that his or her transport vessel compartments, meters and related equipments are —
 - (i) calibrated by the Botswana Bureau of Standards for correct measurements, and
 - (ii) in good working order in accordance with good petroleum industry practice; and
 - (i) not tamper with the composition of a petroleum product in a way that compromises its quality specified in the applicable standards.
- (5) Any person who contravenes this regulation commits an offence.

37. (1) A person licensed to transport petroleum products shall install and maintain an internal monitoring system to track the movement of his or her transport vessel.

Maintenance of internal monitoring system

(2) An internal monitoring system referred to in subregulation (1), shall store information related to a movement of the transport vessel in a permanent, re-playable and printable form.

- (3) A person licensed to transport petroleum products shall —
- (a) maintain and make available for inspection records of not less than one year related to the movement of his or her transport vessel; and
 - (b) not tamper, alter or in any way deal with the internal monitoring system in such a way to make it dysfunctional or work inappropriately.

PART VI — *Petroleum Sampling*

38. (1) The Authority shall —

Sampling process

- (a) conduct a sampling and testing procedure of petroleum products in accordance with the Act, these Regulations and applicable laws; and
- (b) upon receipt of —
 - (i) any complaint, a tip-off or on its own motion, or
 - (ii) a request, in writing, at any given time by a licensee and on payment of a fee set out under Schedule 3, take samples and test any petroleum product from any regulated facility or a transport vessel.

- (2) A licensee shall ensure that a supervisor is present during the sampling process.
- Preliminaries to sampling** **39.** (1) An inspector shall upon arrival at a regulated facility or a transport vessel and having identified himself or herself —
- (a) take samples of a petroleum product from a regulated facility or a transport vessel; and
 - (b) complete the sample collection form in Form A set out in Schedule 6.
- (2) The samples of a petroleum product and the sample collection form under subregulation (1), shall be delivered to a supervisor, a driver of a transport vessel or in their absence to any employee working at regulated facility or a transport vessel.
- Collecting samples** **40.** (1) An inspector shall in each sampling process, take three samples of any type of petroleum product from a regulated facility or transport vessel.
- (2) A sample of a petroleum product referred in subregulation (1), may be taken from —
- (a) an above ground storage tank, either at the top, middle or bottom;
 - (b) each compartment in a transport vessel; or
 - (c) an underground storage tank either at the top, middle or bottom or, in the case of a retail service station, directly from the dispensing pump nozzle.
- (3) A sample of a petroleum product for testing shall be taken by an inspector using a container that meets approved specifications.
- (4) The Authority shall ensure that each sample taken is —
- (a) properly labelled;
 - (b) witnessed by a supervisor, driver of a transport vessel or in their absence any other employee working at a regulated facility or in a transport vessel and an inspector; and
 - (c) sealed properly with the seal of the Authority.
- Sample collection form to be signed** **41.** (1) An inspector shall complete the sample collection form as appropriate and such sample collection form shall be counter-signed by a supervisor, driver of a transport vessel or in their absence, an employee working at a regulated facility or in a transport vessel.
- (2) An inspector shall, in the event that a supervisor, driver of a transport vessel, or in their absence, an employee working at a regulated facility or in a transport vessel refuses or fails to counter-sign the sample collection form, note that, such supervisor, driver of a transport vessel or employee has failed or refused to sign the sample collection form.
- (3) An inspector shall, in respect of the samples referred to in regulation 40 —
- (a) deliver one sample to one of the selected laboratory for testing;
 - (b) deliver one sample to a supervisor, driver of a transport vessel or in their absence, any employee working at a regulated facility or in a transport vessel to be conserved for possible re-testing; and
 - (c) conserve one sample in the Authority's storage facility for possible re-testing.
- (4) The Authority shall properly document the chain of custody of the samples specified in subregulation (3).
- (5) Any person who refuses or fails to sign the sample collection form commits an offence.

42. (1) A supervisor, a driver of a transport vessel or in their absence, any employee working at a regulated facility or in a transport vessel as the case maybe, shall, during the sampling process —

- (a) be entitled to witness the entirety of the sampling process; and
- (b) facilitate the sampling process in any way that an inspector may require.

(2) The Authority and a licensee shall not keep petroleum products for more than two months after the date of collection.

Supervisor or driver of a transport vessel to witness and facilitate the sampling exercise

PART VII – Testing Procedures

43. (1) The Authority shall maintain a list of laboratories qualified to analyse petroleum products samples in accordance with the approved specifications.

(2) The Authority shall select laboratories under subregulation (1), on the basis of the following criteria —

- (a) the ability of the laboratory to conduct specific tests pursuant to the approved specifications;
- (b) where the laboratory is equipped with up-to-date and calibrated instruments and supplies consistent with the scope and volume of tests to be conducted;
- (c) the laboratory's reputation in the community on matters of professionalism and ethical behaviour;
- (d) the laboratory's participation in a voluntary accreditation programme and its current certification status; and
- (e) the ability of the laboratory to deliver timely test results.

(3) The costs of sampling and testing a petroleum product set out under Schedule 3 shall be borne by the Authority, except where a licensee requests sampling and testing on his or her own account.

(4) The Authority shall, not more than seven days after receiving the results from a laboratory, notify a licensee, in writing, of the results and it shall thereafter —

- (a) take no further action where test results indicate that a sample conforms to approved specifications;
- (b) in the event the sample is found with a non-conforming petroleum product, order the person found with such non-conforming petroleum product to —
 - (i) dispose of or blend the non-conforming petroleum product in accordance with applicable standards and laws, or
 - (ii) compensate any person who has lodged and proved a complaint for any damage caused by such non-conforming petroleum product.

(5) A licensee who has been found with a non-conforming petroleum product and is aggrieved by the said result, may request, in writing, for a re-test.

44. (1) The Authority may in the event that any person disputes the results under regulation 43 (5), conduct a re-test of the samples in accordance with these Regulations.

(2) The costs of re-testing a petroleum product set out under Schedule 3, shall be borne by the person disputing the results.

(3) Notwithstanding subregulation (1), the test of the samples shall be done where —

- (a) the Authority has received a request, in writing, for a re-test within five days from the date of receipt of results;
- (b) the seals of the sample to be tested remain intact and the samples are not tampered with; and

Selection of qualified laboratories

Re-testing process

(c) the re-test costs have been fully paid by the disputing person.

(4) The Authority shall, in the event it decides to re-test a sample, recover the sample conserved by a licensee in terms of regulation 41 (3) (b) and the sample conserved by the Authority in terms of regulation 41 (3) (c) to be re-tested in two separate laboratories selected by the Authority pursuant to regulation 43 (1):

Provided that a re-test shall not be conducted by a laboratory that was involved in the first testing process.

Right to witness
re-test

45. (1) A licensee, the complainant or his or her representative shall have the right to witness a re-test.

(2) In the event that a licensee, the complainant or his or her representative refuses or fails to appear for the re-testing under sub-regulation (1), such licensee, complainant or his or her representative shall be deemed to have —

(a) waived his or her right to witness the re-test; and

(b) authorised the Authority to proceed with re-testing in their absence.

(3) The Authority shall, after receipt of the results of re-testing —

(a) make a final determination on the test results from the two laboratories taking into account the results of the first test; and

(b) notify a licensee or any other person disputing the results of such determination.

(4) The results of the re-testing process shall be final.

PART VIII — *Procedures on Inspection of Regulated Facility or Transport Vessel*

Procedure for
inspection of
regulated
facility or
transport
vessel

46. (1) An inspector may, at any time, inspect a regulated facility, transport vessel or any document related to the conduct of a regulated activity to ensure compliance with the provisions of the Act, the relevant regulated sector legislation or these Regulations.

(2) Notwithstanding subregulation (1) or any other provision under these Regulations, a licensee may at any given time request, in writing for a voluntary inspection of a regulated facility.

(3) The request for an inspection under subregulation (2), shall be accompanied by a fee set out under Schedule 3.

(4) A licensee shall render all necessary assistance to facilitate any inspection of its regulated facility or transport vessel pursuant to subregulation (1).

(5) An inspector may, during the course of inspection —

(a) take a sample of any substance relating to loading, handling, offloading or delivery of a petroleum product; or

(b) make a copy or take an extract from any book, database, account or record kept at the regulated facility, in a transport vessel or any other place.

(6) An inspector may, during the course of an inspection, break any seal for the purpose of taking a sample, and such inspector shall thereafter affix the Authority's seal.

(7) A person shall not offload any petroleum product from a regulated facility or a transport vessel which is affixed with the Authority's seal, without prior authorisation from the Authority.

Obligations of
inspector
during
inspection

47. (1) An inspector shall, during the course of inspection —

(a) identify himself or herself to a licensee or a customer with an identity card issued by the Authority;

- (b) explain to a licensee or the customer the purpose of the inspection;
 - (c) conduct himself or herself with fairness, objectivity and integrity;
 - (d) not engage in any form of discrimination, bias or harassment;
 - (e) refrain from taking part in any duty where he or she may have conflict of interest;
 - (f) carry out an inspection in a professional manner in accordance with the requirements of these Regulations, codes, guidelines, inspection checklist, standards and applicable laws; and
 - (g) not use force or abusive, threatening and insulting language to a licensee.
- (2) Any person who is aggrieved by an act of an inspector during inspection may, within 14 days, from the date of the act, report the matter, in writing to the Authority.

48. (1) A licensee shall not —

- (a) hinder or obstruct an inspector in the exercise of any of the powers conferred upon him or her under these Regulations;
 - (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; or
 - (d) when required by the inspector to answer a question, deny, or fail to answer such question to the best of his or her knowledge, information and belief.
- (2) Any person who contravenes subregulation (1) commits an offence.

Prohibited acts
against
inspectors

PART IX – *Penalties for Non-Conforming Products*

49. (1) A licensee found with a non-conforming petroleum product commits an offence.

(2) Without prejudice to the penalty provided under regulation 55, the Authority may, in the event of a non-conforming petroleum product, order the licensee found with such product to —

- (a) dispose of the non-conforming petroleum product in accordance with applicable standards and any environmental laws; or
- (b) compensate any person who has lodged and proved a complaint for any damage caused by such non-conforming petroleum product.

(3) Notwithstanding the provisions of subregulations (1) and (2), the Authority may revoke or suspend licence of any habitual offender.

(4) In this regulation “habitual offender” means a licensee who has been issued with a notification of an offence more than two times within a period of the licence.

50. Notwithstanding the provisions of these Regulations and any other penalties provided under the Act, the Authority shall refer to —

- (a) the Revenue Service; or
- (b) any other relevant authority,

any person found with a non-conforming petroleum product where it is believed that there were attempts by such person to defraud the Government of its revenue.

Penalties for non-
conforming
products

Reference to
Revenue Service
or relevant
authority

PART X — *Petroleum Products Pricing*

51. The Authority shall review and adjust petroleum products prices from time to time in accordance with the established pricing methodology.

Price reviews

Retail pump price

52. (1) The Authority shall determine the appropriate retail pump price in accordance with the set pricing formula.

(2) A person shall not sell by retail, either in person or through an agent or employee —

(a) at any place specified in the first column of Schedule 7, the petroleum products specified at the head of the second, third, fourth or fifth column of the Schedule, at a price exceeding the amount per litre specified in relation to that place in that column, which amount shall include —

(i) in respect of petrol, levies of —

(aa) 13.5 thebe per litre payable in respect of the National Petroleum Fund,

(bb) 9.5 thebe per litre payable in respect of the Motor Vehicle Accident Fund,

(cc) 90 thebe per litre payable in respect of the Road Levy Collections Fund,

(dd) 112 thebe per litre payable in respect of the Fuel Levy Fund, and

(ee) 17.5 thebe per litre payable in respect of the security of supply margin, and

(ii) in respect of diesel, levies —

(aa) 13.5 thebe per litre payable in respect of the National Petroleum Fund,

(bb) 9.5 thebe per litre payable in respect of the Motor Vehicle Accident Fund,

(cc) 90 thebe per litre payable in respect of the Road Levy Collections Fund,

(dd) 107 thebe per litre payable in respect of the Fuel Levy Fund, and

(ee) 17.5 thebe per litre payable in respect of the security of supply margin; and

(b) at any place specified in the first column of Schedule 7, illuminating paraffin at a price not proportionate to that specified in relation to that place in the fifth column of the Schedule.

(3) The petroleum product pump price per litre at an unspecified location shall not exceed the price at which the product was delivered to the dealer by more than the retail margin.

(4) In this regulation, “levy” means levy payable on petroleum products.

(5) Any person who contravenes this regulation commits an offence.

PART XI — *Compliance and Enforcement*

Notification of offence

53. (1) Where at the conclusion of an inspection under regulation 46, an inspector determines that any provision of the Act, relevant regulated sector legislation and these Regulations has been violated, he or she shall notify the person responsible for such violation.

(2) A person who has been notified of an offence under subregulation (1) may —

(a) where he or she disputes the offence, complete Part A of the notification of the offence form set out in Schedule 8; or

(b) where he or she admits the offence, complete Part B of the notification of the offence form set out in Schedule 8.

- (3) Where a person who has been found in violation of the law, has —
- (a) admitted to the offence under subregulation 1(b), such person shall, within 14 days, from the date of the said admission, be required to pay an administrative fine as may be determined by the Authority; or
 - (b) disputed the offence under subregulation 1(a), such person shall within seven days from the date of commission of the offence be issued with a compliance order.

(4) Any person who refuses to sign the notification of offence form after being required to do so by an inspector, commits an offence.

54. The Authority may, while discharging its regulatory function and where it finds that there is continued violation of the provisions of the Act, the relevant regulated sector legislation and these Regulations, issue a compliance order to the person responsible for such violation.

Issuance of compliance orders

55. (1) Any person who contravenes any provision of these Regulations for which no penalty is not provided, commits an offence and is liable to a fine not exceeding P5, 000 or to imprisonment for a term not exceeding five years or to both.

Offences and penalties

(2) Notwithstanding the penalty imposed under subregulation (1), any person who contravenes the provisions of these Regulations may have his or her licence revoked in addition to the penalty in subregulation (1).

56. (1) Any licence or authorisation to import petroleum products issued to a regulated entity, except a regulated entity that is a majority citizen owned company, prior to the commencement of these Regulations shall remain valid until 31st March, 2024.

Savings and transitional provisions

(2) A regulated entity that is a majority citizen owned company granted a licence to import petroleum products by the Authority before the commencement of these Regulations, shall apply to the Authority within six months from the date of commencement of these Regulations for an import licence.

(3) A regulated entity that is a majority citizen owned company that has not made an application for a licence to import petroleum products within the transitional period in subregulation (2) shall be deemed to be unlicensed for the purposes of these Regulations.

(4) Subregulation (2), shall not apply to a public body.



SCHEDULE 1
FORM A

APPLICATION.....
(regulation 4)

IMPORTANT NOTES:

1. Complete this form and submit (*with all relevant enclosures*) to the Chief Executive Officer of BERA.
2. To avoid delays, answer fully all items and submit ALL required information. You may submit your application electronically or by hand to BERA offices. This application will not be processed until it has been confirmed to be complete.
3. Where options are given, tick the relevant box. Leave no item unanswered or un-ticked. If an item seems not applicable to the specific application, you should indicate with block capitals *N/A* meaning Not Applicable. You should ensure that all required documentation are enclosed and that each separate sheet of information attached to the application corresponds to a specific item in the application.

For BERA Use Only	
Date Received:	File Number:
Amount paid in BWP:	Receipt No. (<i>Attached Copy</i>):

PART I: APPLICANT'S DETAILS (<i>attach copies of the documents as applicable</i>)	
Applicant's name:	
Trading name:	
Company Registration number:	
VAT No.	
TIN No.	
APPLICANT'S ADDRESSES:	
Physical address:	Plot/Lot: _____ Street name: _____ Block No. _____ Building No. _____
Postal Address:	_____ _____
_____ (<i>contact person name</i>)	_____ (<i>designation</i>)
_____ (telephone)	_____ (facsimile)
_____ (cellphone)	_____ (e-mail)

APPLICANT'S LEGAL STATUS: (tick ✓ as applicable)					
<input type="checkbox"/>	Partnership	<input type="checkbox"/>	Public Limited Liability Company	<input type="checkbox"/>	Private Limited Liability Company
<input type="checkbox"/>	Parastatal	<input type="checkbox"/>	Government Agency	<input type="checkbox"/>	Cooperative Society
Other (specify): _____					
PART II:	APPLICANT'S FINANCIAL DETAILS (Provide proof of financial capability which is either)				
	A bank guarantee or credit facility of not less than P 1 500 000.00 or equivalent in convertible currency or bank guarantee to the value determined by the Authority in line with licensed activity to be performed, whichever is greater.				
	A deposit bank statement from a bank or financial institution licensed by the Bank of Botswana to act as such, showing a credit balance of not less than P 150 000.00 or equivalent in convertible currency or the value determined by the Authority in line with licensed activity to be performed, whichever is greater.				
	An audited financial statement showing annual gross turn over of not less than P 1 500 000 or equivalent in convertible currency, or the value determined by the Authority in line with licensed activity to be performed, whichever is greater.				
APPLICANT'S BUSINESS PLAN AND DESCRIPTION OF BUSINESS ACTIVITY: (tick ✓ as applicable)					
<input type="checkbox"/>	Attached Business Plan (including proposed 5-year investment plan and detail of sources of funding and supporting documentation)				
Description of the applicant's business activity (Use additional Sheet if Necessary)					

PART IV:	TECHNICAL INFORMATION				
Purpose(s) of the licence applied:					
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	OTHER.....	
Are you in possession of market license with another licensee?				YES	NO
Give additional information or attach the documents					

Detailed description of land ownership, location and capacity of the facility (including technical drawings)

(Use additional sheet if necessary)

List and attach evidence of all required permits and consents issued by relevant authorities

	Land Title and Planning/Zoning Certificate:
	Building Permit:
	Other (specify):
PART V:	HEALTH, SAFETY AND ENVIRONMENT (HSE) <i>(Attach relevant documents)</i>
	EIA certificate:
	Other (<i>specify</i>):
PART VI:	LIST OF ENCLOSURES

Confirm by a tick below (and where appropriate attach certified copies or extracts), documents submitted

	Certificate of incorporation
	Land Title or Lease Agreement
	Copy of Application Fee Receipt
	Certified copies of TIN & VAT Certificates
	Bankers' guarantee/letter of comfort/bank statement showing financial capability
	List of Directors and Shareholders
	Signed Declaration by Directors
	Business Plan
	Design or As-built Engineering Drawings (to be approved by BERA)
	Environmental and Socio Impact Assessment Study Report

PART VII:

DECLARATION BY THE APPLICANT

I (*insert name*) being.....
(*insert title/position*) hereby declare that I am authorised to make this application on behalf
of(*insert applicant name*).

I further declare that to the best of my knowledge the information supplied herein are correct.

SWORN/AFFIRMED at by the said
who is identified to me by / known to me personally
..... the latter being known to me personally
this DECLARANT on this.....day of
..... 20.....

BEFORE ME:



COMMISSIONER OF OATHS

NOTE:

If this application form is completed electronically it must be printed out, signed before a Commissioner of Oaths and submitted with the necessary supporting documents and submitted to BERA Head Office.



FORM B
APPLICATION FOR A LICENCE TO IMPORT A
PETROLEUM PRODUCT
(regulation 5)

IMPORTANT NOTES:

1. Complete this form and submit (*with all relevant enclosures*) to the Chief Executive Officer of BERA
2. To avoid delays, answer fully all items and submit ALL required information. You may submit your application electronically or by hand to BERA offices. This application will not be processed until it has been confirmed to be complete.
3. Where options are given, tick the relevant box. Leave no item unanswered or un-ticked. If an item seems not applicable to the specific application, you should indicate with block capitals *N/A* meaning Not Applicable. You should ensure that all required documentation are enclosed and that each separate sheet of information attached to the application corresponds to a specific item in the application.

For BERA Use Only			
Date Received:		File Number:	
Amount paid in BWP:		Receipt No. (Attached Copy):	
PART I:	APPLICANT'S DETAILS (<i>attach copies of the documents as applicable</i>)		
Applicant's Name:			
Trading Name:			
Company Registration Number:			
VAT No.			
TIN No.			
APPLICANT'S ADDRESSES:			
Physical address:		Plot/Lot: _____	
		Street Name: _____	
		Block No. _____ Building No. _____	
Postal Address:		_____	

_____ (contact person name)		_____ (designation)	
_____ (telephone)	_____ (facsimile)	_____ (cellphone)	_____ (e-mail)

APPLICANT'S LEGAL STATUS: (tick ✓ as applicable)					
	Partnership		Public Limited Liability Company	Private Limited Liability Company	
	Parastatal		Government Agency	Cooperative Society	
	Other (specify):				
PART II:	APPLICANT'S FINANCIAL DETAILS (Provide proof of financial capability which is either)				
	A bank guarantee or credit facility of not less than P 1 500 000.00 or equivalent in convertible currency or the value determined by the Regulatory Authority in line with the petroleum quota allocation, whichever is greater.				
	A deposit bank statement at a bank or financial institution licensed by the Bank of Botswana to act as such, showing a credit balance of not less than P 150 000.00 or equivalent in convertible currency or the value determined by the Authority in line with the petroleum quota allocation, whichever is greater.				
	An audited financial statement showing annual gross turn over of not less than P 1 500 000.00 or equivalent in convertible currency or the value determined by the Authority in line with the petroleum quota allocation, whichever is greater.				
APPLICANT'S BUSINESS PLAN AND DESCRIPTION OF BUSINESS ACTIVITY: (tick ✓ as applicable)					
	Attached Business Plan (including proposed 5-year investment plan and detail of sources of funding)				
	Description of be the applicant's business activity (Use additional Sheet if Necessary)				

PART IV:	TECHNICAL INFORMATION				
Purpose(s) of the licence applied:					
	IMPORT		EXPORT	OTHER.....	
Are you in possession of storage depot, hospitality agreement, market licence with another licensee?				YES	NO
Give additional information or attach the documents					
Are you in possession or in hospitality agreement for transportation vehicles or infrastructure (Road or Rail Tankers/Pipeline etc.)				YES	NO
Give additional information or attach the documents					
_____ (Use additional Sheet if Necessary)					

Detailed description and list of ports of entry or exit of petroleum products. <hr/> <i>(Use additional sheet if necessary)</i>	
Detailed description of ownership, location and capacity of the storage (including technical drawings if unlicensed or licence no. if licensed) <hr/> <i>(Use additional sheet if necessary)</i>	
PART V:	PRODUCT SOURCE INFORMATION <i>(Attach relevant documents such as supply agreements)</i>
	Country of origin:
	Supplier details:
	Volumes to be imported:
	Other (specify):
PART VI:	CUSTOMER DETAILS
Indicate the intended market for the licensed goods and/or services	
	Bulk Supplies (state):
	Retail Supplies:
	Product Types and Volumes by Grade:
	Other (<i>specify</i>):
Tick and attach copies of all the following documents as applicable	
	Signed Contracts or Agreements
	Memoranda of understanding governing commercial transactions of regulated goods/services.
	Consumer Service Charter
PART VII:	LIST OF ENCLOSURES
Confirm by a tick <input checked="" type="checkbox"/> below (<i>and where appropriate attach certified copies or extracts</i>), documents submitted	
	Certificate of incorporation
	Supply Agreements
	Copy of Application Fee Receipt

	Hospitality Agreements
	Extracts of the Certified Audited Accounts
	Certified copy of Audited accounts
	Bankers' guarantee/letter of comfort/bank statement showing financial capability
	List of Directors and Shareholders
	Business Plan
	Design or As-built Engineering Drawings in the case of an unlicensed storage (to be approved by BERA)
	Transportation details (Agreements or registration books)
	Emergency Preparedness Plan
	SHEQ Policy
	Consumer Service Charter

PART VIII: DECLARATION BY THE APPLICANT

I (insert name) being.....
 (insert title/position) hereby declare that I am authorised to make this application on behalf
 of(insert applicant name).

I further declare that to the best of my knowledge the information supplied herein are correct.

SWORN/AFFIRMED at by the said
 who is identified to me by / known to me personally
 the latter being known to me personally this
 **DECLARANT** on thisday of
 20.....

BEFORE ME:



COMMISSIONER OF OATHS

NOTE:
 If this application form is completed electronically it must be printed out, signed before a Commissioner of Oaths and submitted with the necessary supporting documents and submitted to BERA Head Office.



FORM C
APPLICATION FOR A LICENCE TO EXPORT A
PETROLEUM PRODUCT
(regulation 6)

IMPORTANT NOTES:

1. Complete this form and submit (with all relevant enclosures) to the Chief Executive Officer of BERA
2. To avoid delays, answer fully all items and submit ALL required information. You may submit your application electronically or by hand to BERA offices. This application will not be processed until it has been confirmed to be complete.
3. Where options are given, tick the relevant box. Leave no item unanswered or un-ticked. If an item seems not applicable to the specific application, you should indicate with block capitals *N/A* meaning Not Applicable. You should ensure that all required documentation are enclosed and that each separate sheet of information attached to the application corresponds to a specific item in the application.

For BERA Use Only			
Date Received:		File Number:	
Amount paid in BWP:		Receipt No. (Attached Copy):	
PART I:	APPLICANT'S DETAILS (attach copies of the documents as applicable)		
Applicant's name:			
Trading name:			
Company Registration number:			
VAT No.			
TIN No.			
APPLICANT'S ADDRESSES:			
Physical address:		Plot/Lot: _____	
		Street name: _____	
		Block No. _____ Building No. _____	
Postal Address:		_____	

_____ (contact person name).		_____ (designation)	
_____ (telephone)	_____ (facsimile)	_____ (cellphone)	_____ (e-mail)

APPLICANT'S LEGAL STATUS: (tick ✓ as applicable)			
<input type="checkbox"/>	Partnership	<input type="checkbox"/>	Public Limited Liability Company
<input type="checkbox"/>	Parastatal	<input type="checkbox"/>	Government Agency
<input type="checkbox"/>	Private Limited Liability Company		
<input type="checkbox"/>	Cooperative Society		
<input type="checkbox"/>	Other (specify): _____		
PART II: APPLICANT'S FINANCIAL DETAILS (Provide proof of financial capability which is either)			
<input type="checkbox"/>	A bank guarantee or credit facility of not less than P 1 500 000.00 or equivalent in convertible currency or the value determined by the Regulatory Authority in line with the volumes to be exported, whichever is greater.		
<input type="checkbox"/>	A deposit bank statement from a bank or financial institution licensed by the Bank of Botswana to act as such, showing a credit balance of not less than P 150 000.00 or equivalent in convertible currency, the value determined by the Authority in line with the volumes to be exported, whichever is greater.		
<input type="checkbox"/>	An audited financial statement showing annual gross turn over of not less than P 1 500 000.00 or equivalent in convertible currency or the value determined by the Authority in line with the volumes to be exported, whichever is greater.		
APPLICANT'S BUSINESS PLAN AND DESCRIPTION OF BUSINESS ACTIVITY: (tick ✓ as applicable)			
<input type="checkbox"/>	Attached Business Plan (including proposed 5-year investment plan and detail of sources of funding)		
Description of the applicant's business activity (Use additional Sheet if Necessary) _____ _____			
PART IV: TECHNICAL INFORMATION			
Purpose(s) of the licence applied:			
<input type="checkbox"/>	IMPORT	<input type="checkbox"/>	EXPORT
<input type="checkbox"/>	OTHER.....		
Are you in possession of storage depot, hospitality agreement, market licence with another licensee?		YES	NO
Give additional information or attach the documents _____			
Are you in possession or in hospitality agreement for transportation vehicles or infrastructure (Road or Rail Tankers/Pipeline etc.)		YES	NO
Give additional information or attach the documents _____			

Detailed description and list of ports of entry or exit of petroleum products.	

_____ (Use additional sheet if necessary)	
Detailed description of ownership, location and capacity of the storage (including technical drawings if unlicensed or licence no. if licensed)	

_____ (Use additional sheet if necessary)	
PART V:	PRODUCT SOURCE INFORMATION (Attach relevant documents such as supply agreements)
	Country of Origin: _____
	Supplier Details: _____
	Volumes to be imported: _____
	Other (Specify): _____
PART VI:	CUSTOMER DETAILS
Indicate the intended market for the licensed goods and/or services	
	Bulk Supplies (state): _____
	Retail Supplies: _____
	Product Types and Volumes by Grade: _____
	Other (specify): _____
Tick and attach copies of all the following documents as applicable	
	Signed Contracts or Agreements

Memoranda of understanding governing commercial transactions of regulated goods/services.	
Consumer Service Charter	
PART VII:	LIST OF ENCLOSURES
Confirm by a tick <input type="checkbox"/> below (and where appropriate attach certified copies or extracts), documents submitted	
	Certificate of incorporation
	Supply Agreements
	Copy of Application Fee Receipt
	Hospitality Agreements
	Extracts of the Certified Audited Accounts
	Certified copy of Audited accounts
	Bankers' guarantee/letter of comfort/bank statement showing financial capability
	List of Directors and Shareholders
	Business Plan
	Design or As-built Engineering Drawings in the case of an unlicensed storage (to be approved by BERA)
	Transportation details (Agreements or registration books)
	Emergency Preparedness Plan
	SHEQ Policy
	Consumer Service Charter

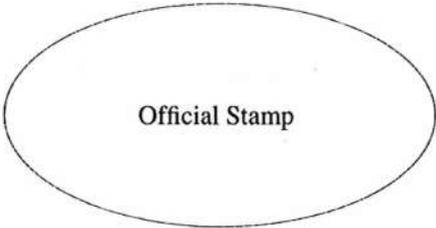
PART VIII:	DECLARATION BY THE APPLICANT
-------------------	-------------------------------------

I (insert name) being.....
(insert title/position) hereby declare that I am authorised to make this application on behalf
of(insert applicant name).

I further declare that to the best of my knowledge the information supplied herein are correct.

SWORN/AFFIRMED atby the said
..... who is identified to me by/known to
me personally the latter being known to me personally
this **DECLARANT** on thisday of
..... 20.....

BEFORE ME:



COMMISSIONER OF OATHS

NOTE:
If this application form is completed electronically it must be printed out, signed before
a Commissioner of Oaths and submitted with the necessary supporting documents and
submitted to BERA Head Office.



SCHEDULE 2
FORM A
(regulation 8)

Licence Number: _____

LICENCE FOR THE _____

This licence is issued by Botswana Energy Regulatory Authority, hereinafter referred to as "BERA", in terms of the Botswana Energy Regulatory Authority Act.

This licence is issued to _____

_____ (PTY) LTD

(Company Registration No. _____)

This licence is only for the purpose of: _____

Valid up to.....20.....

The operation of _____ permitted under this licence is subject to the terms and conditions as contained in this licence and amendments to these conditions as imposed by BERA.

Issued at _____ on this _____ day of _____ 20_____.

CHIEF EXECUTIVE OFFICER



SCHEDULE 3
FEES
(regulations 4, 5, 6, 12, 13, 38, 43, 44 and 46)

APPLICATION FEES AND OTHER CHARGES

Fee Type		Application fee (BWP)	Renewal fee (BWP)
Petroleum Product	Storage <30,000L Petroleum Product	2,500.00	2,500.00
	Loading, discharge facilities	5,000.00	5,000.00
	Storage >30,000L Petroleum Product	5,000.00	5,000.00
	Import/Export	2,500.00	2,500.00
	Retail	2,500.00	2,500.00
	Pipeline	30,000.00	30,000.00
	Manufacturing (other than small scale e.g., biofuels)	30,000.00	30,000.00
	Construction	2,500.00	2,500.00
Transfer or assignment		5,000.00	
Sampling, Testing and Re-testing (per sample)		800.00	
Voluntary Inspection	Min: 1,000.00 Max: 5,000.00		



SCHEDULE 4
APPLICATION FOR RENEWAL OF LICENCE
FORM A
(regulation 12)

For BERA Use Only	
Date Received:	File Number:
Time Received:	Received by:

For BERA Use Only

IMPORTANT NOTE: Complete this form and return it with all other relevant enclosures to the Chief Executive Officer of BERA at the above address.

In order to avoid unnecessary delays, answer fully all items and submit to BERA all of the information required to consider this application. BERA will not process this application until it has been found to be complete.

When completing this form, **PRINT USING BLUE OR BLACK INK ONLY**. Where options are given, tick the relevant box. Leave no item unanswered or un-ticked. If an item seems not applicable to the specific application, you should indicate with block capitals N/A meaning Not Applicable. You should ensure that all required documentation is enclosed and that each separate sheet of information attached to the application corresponds to a specific item in the application. Where there is a requirement to provide documentation on a separate sheet, it must be on clean, clear A-4 paper.

PART I:	DETAILS OF THE APPLICANT
1.	Name of Applicant (Insert trading name)
2.	Registration Status: (Fill where appropriate) (a) Certificate of Incorporation No..... (b) Certificate of Compliance No..... (c) Company Registration Number..... (d) TIN No..... (e) VAT No.....
3.	Address of Retail Service Station: (a) Physical address: Street.....Plot No..... Block No.....Building No..... (b) Postal Address: (c) Telephone No. (d) Facsimile:Cellphone..... (e) Email:



SCHEDULE 5
FORM A
APPLICATION FOR TRANSFER OF LICENCE
(regulation 13)

This section to be completed by the Current Licensee			
	Current Licensee to complete as appropriate		
Current Licensee's name			
Name and address of the Transferor			
Reason for Transfer or assignment (attach documentary proof)			
Address of the Regulated facility			
	Postcode	Tel No.	
	Email		
Licence Particulars	Type of Licence:		
	Licence No.		
	Licence Duration:		
	Expiry Date:		
I agree to the Licence being transferred to the applicant(s) below:			
Name and physical Address of the Transferee:		Date:	
Business Organisation (Sole proprietor, Company, Partnership)		Position:	
Principal Officer (only if the transferee is a company or partnership)		Date:	Company Seal
		Signature:	

Name of Partners or Shareholders	1.	
	2.	
	3.	
	4.	
	5.	
	6.	
	7.	

This section to be completed by the Applicant(s)

1. I the undersigned, being the new occupier of the premises detailed in the application, hereby apply for the transfer of the current licence and I hereby declare that the information stated herein in regard to the transferee are true to the best of my knowledge.
2. In the event of a licence being transferred:
 - (a) I agree to abide by the conditions laid down by BERA and applicable laws, and not to alter in any way the approved arrangements of the premises without the written approval of BERA, nor use the said premises for any other purpose than those prevailing at the time the licence is transferred;
 - (b) the licence shall have the like effect in all respects as if no transfer had been made; and
 - (c) all duties and responsibilities that were to be fulfilled by the transferor are automatically transferred to the transferee.

Date			
Signed:		Position:	
Print Name			

Ownership of the site comprising the regulated facility.

If the transferor is not the owner of the site (i.e. a tenant), enter below the name and address of the owner or owners, as the case may be:

REMARKS BY INSPECTOR(S)

.....
.....
.....
.....
.....

PURPOSE OF SAMPLING

.....
.....
.....
.....



SCHEDULE 7
PRICE SCHEDULE ¹
(regulation 52)

(prices in thebe per litre)

PLACE	ULP 93	ULP 95	50PPM	IK

¹Schedule 7 is not reproduced here owing to frequent amendments.



SCHEDULE 8
NOTIFICATION OF OFFENCE FORM
(regulation 53)

For BERA Use Only	
Date:	File Number:
Admin fee paid in BWP:	Receipt No. (Attached Copy):
To..... Address.....	
1. You are charged with the following offence(s):	
(a)	
(b)	
(c)	
(d)	
(e)	
(f)	
(2) If you DO NOT WISH to admit to have committed the offence(s) you are required to complete "PART A" below and hand deliver this notification to the Chief Executive Officer of the Authority.	
(3) If you WISH to admit commission of the offence(s) you should complete "PART B" below and send this notification, together with the statutory penalty fee for each offence to which you admit to the Authority within 14 days from the date of service of this notification.	
(4) Penalty for each offence mentioned above shall be as provided for under the Botswana Energy Regulatory Authority Act, the relevant regulated sector legislation, these Regulations or any other laws relevant to the conduct of the petroleum products business.	
PART "A" – NOTIFICATION OF INTENTION TO ANSWER CHARGES	
I of residential or business address) being the (owner/director/manager/representative) of.....	
..... intend to respond to the Authority on the charge(s)	
.....set out in Paragraph 1 of this Notification.	
Signature:	
Date:	

PART "B" – ADMISSION OF OFFENCE

I of..... residential or
business address) being the (owner/director/manager/representative) of.....
..... admit to the charge(s)
.....set out in Paragraph 1 of this Notification and
I undertake to pay the requisite fine of BWP..... within a period of
14 days from the date hereof.

Signature:

Date:

FACILITY/VEHICLE/VESSEL DETAILS

Business Place.....

Licence No.

Vessel Registration No.

Signature of the person issued with the notification
.....

ISSUED BY

Name:

Designation:.....

Date:

Signature of the Inspector
.....

MADE this 4th day of March, 2024.

LEFOKO M. MOAGI,
Minister of Minerals and Energy.