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THE PETROLEUM ACT
(CAP. 392)

RULES

ARRANGEMENT OF RULES

PART I
PRELIMINARY PROVISIONS

Rules	*Titles*
1.	Citation.
2.	Application.
3.	Interpretation.

PART II
CONSTRUCTION APPROVAL

4. Application for construction approval.
5. Grant of construction approval.
6. Validity and duration of a construction approval.
7. Notice of commencement.
8. Suspension and revocation of a construction approval.
9. Appeal.

PART III
LICENSING PROCEDURES

10. Licensed activity.
11. Power to enter and close a facility.
12. Lubricant wholesale licence minimum requirements.
13. Lubricant blending licence minimum requirements.
14. Lubricant distribution licence minimum requirements.
15. Licence application.
16. Publication of licence applications.
17. Grant of a licence.
18. Validity and duration of a licence.

19. Application for transfer of a licence.
20. Change of name.
21. Change of shareholding structure.
22. Application for renewal of a licence.
23. Suspension or revocation of a licence.
24. Appeal.

PART IV
GENERAL OBLIGATION OF A WHOLESALER, A DISTRIBUTOR, A LUBRICANT OIL BLENDER AND A RETAILER

25. General obligations of a wholesaler.
26. General obligations of a distributor.
27. General obligations of LOB.
28. General obligations of a retailer.
29. Protection of lives and property.
30. Compensation for Loss suffered.
31. Insurance.
32. Maintenance of records, provisions and disclosure of information.
33. Confidential information.
34. Penalty.

PART V
ENVIRONMENTAL PROTECTION

35. Compliance with environment laws and standards.
36. Sanctions for events of violation.

PART VI
TECHNICAL OBLIGATIONS OF A SUPPLIER AND A DEALER

37. Compliance with specifications and standards.
38. Execution of a dealership agreement.
39. Provision of technical support.
40. Preparation and submission of a plan.
41. Termination of dealership agreement.
42. Offence.
43. Prohibition of decant.
44. Prohibition on under filling.
45. Reference of violation to the Certification Authority.
46. Deceptive Trade Practices.

47. Storage of a lubricant.
48. Provision of fire extinguishing equipment.
49. Preparation of fire emergency plan.
50. Inspection of a licensed facility.
51. Prohibited acts against inspectors.
52. Decommissioning procedure.
53. Site restoration.

PART VII

PENALTIES AND REMEDIAL MEASURES

54. Penalties and remedial measures.
55. Appeal.
56. Power to enter and close a facility.
57. Transitional Provision.
58 General penalty.
59. The Authority to supplement procedures.

SCHEDULE

THE PETROLEUM ACT
(Cap. 392)

RULES

(Made under section 5(3))

THE PETROLEUM (LUBRICANT OPERATIONS) RULES, 2014

PART I
PRELIMINARY PROVISIONS

Citation

1. These Rules may be cited as the Petroleum (Lubricant Operations) Rules, 2014.

Application

2. These Rules shall apply in regulation of petroleum lubricant blending, wholesale, distribution and retail business.

Interpretation
Cap 392
Cap 130

3. In these Rules, unless the context otherwise requires:–

"Act" means the Petroleum Act;

"applicable law" means any principal law, treaty, proclamation, regulation, rule, order or a by-law that is customarily treated in Tanzania as having legally binding force in matters pertaining to regulation of petroleum lubricants;

Cap 414

"approved specification" means any specification or standard in relation to a petroleum product applied by the Authority and as approved pursuant to the Standards Act, and any other standards that are widely used for Good Petroleum Industry Practices;

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

"blending customer" means a wholesale lubricant licensee who has a contract with a lubricant oil blender to blend its products;

Cap 245

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

"container" means any approved receptacle including a drum, pail,

jerry can, tin, carton, can or jar in which a lubricant is held or carried;

"Compliance Order" means an order issued by the Authority pursuant to section 39 of the EWURA Act; Cap 414

"customer" means any person who supply or that has a contract to be supplied with a lubricant;

"dangerous situation" means a situation involving a petroleum product that:

(a) endangers safety or health of a person, safety of a person's property; or

(b) creates an immediate risk of significant environmental harm;

"dealership agreement" means the contractual arrangement that establishes, *inter alia*, a relationship between a wholesaler and a distributor or a distributor and a retailer with respect to the purchase and sale of a lubricant which shall contain the minimum mandatory requirements specified in rule 40 (4);

"decant" means transfer of a lubricant from one container to another;

"designated customer" means a person who buys lubricants from a wholesaler for his own use;

"distributor" means a person who has a dealership agreement with a wholesaler with respect to the purchase and sale of a lubricant as well as selling the lubricant to a customer;

"Good Petroleum Industry Pactices" means any conduct related to a petroleum product intended to preserve product quality and meeting generally accepted health, safety and environmental requirements;

"incident" means:

(a) an event that involves the leakage of a petroleum product from a transport unit or a spill of a petroleum product resulting from the dispensing or offloading activities;

(b) death or personal injury occurring as a result of the conduct of a licensed activity or retail business;

(c) a fire or an event incidental to a fire resulting from the conduct of a licensed activity or retail business; or

(d) any other significant event that may adversely affect the conduct of a licensed activity or retail business;

"inspector" means an officer or an agent of the Authority appointed by the Authority to perform the functions of inspection as required under the Act and applicable laws;

"leak" means the discharge of a lubricant into any structure or thing;

"licence" means an authorization issued by the Authority to conduct a licensed activity pursuant to these rules;

"licensee" means a holder of a licence;

"licensed actvity" means an activity related to the lubricant wholesale, blending or distribution business;

"licensed facility" means a warehouse, building, storage tank, parking area, associated equipment and accessory which a licensee uses to conduct a licensed activity;

"LOB' means a person owning or operating a Lubricant Oil Blending Plant who is also referred as Lube Oil Blender;

"lubricant" means a substance made of only base oil or by blending base oil with an additive and which is used for the purpose of reducing friction between two surfaces in relative motion;

"lubricant blending business" means an activity conducted by "LOB" necessary for blending a lubricant on behalf of a lubricant wholesaler;

"lubricant distribution business" means an activity necessary for purchasing a lubricant from a lubricant wholesaler, storing, handling and selling of a lubricant to a customer;

"lubricant retail business" means storing, handling is selling of Lubricant to a customer to through a lubricant shop;

"lubricant shop" means any place where a lubricant is sold or offered for sale to a customer by a retailer;

"lubricant wholesale business" means an activity necessary for importing of a lubricant or importation of base oil and additives for blending and selling of a lubricant to a distributor, a wholesaler branded petrol station and a designated customer;

"NEMC" means National Environmental Management Council established by Order under the National Environmental Management Act;

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

(a) grant an inspector access to relevant premises and facilities to facilitate the performance of their duties;

(b) detect any defect weakness within a licensed facility and make an authoritative judgement as to its suitability for further use;
(c) answer questions raised by the inspectors; and
(d) witness the inspection process.

"retailer" means a person who conducts a lubricant retail business;

"supplier" means a person conducting an activity in connection with a lubricant wholesale, distribution, blending or retail business;

"TBS" means the Tanzania Bureau of Standards established under the Standards Act;

"tribunal" means the Fair Competition Tribunal established under the provisions of the Fair Competition Act; and

"wholesaler" means any person who engages in lubricant wholesale business.

PART II
CONSTRUCTION APPROVAL

Application for Construction approval

4.–(1) No person shall construct a licensed facility without seeking and obtaining a construction approval from the Authority in a manner provided under these Rules.

(2) Any person who wishes to construct a licensed facility shall lodge an application with the Authority by filling in the application form as prescribed by the Authority which shall provide:
(a) the applicant's details including name, business address, telephone and fax number;
(b) the location and complete address of the proposed licensed facility;
(c) a list of personnel and proof of training and qualification;
(d) a list of facilities to be constructed; and
(e) any other information as shall be required by the Authority.

(3) The application form shall be accompanied by:
(a) a non-refundable fee as prescribed by the Authority from time to time;
(b) certified copies of its registration documents;
(c) a project or business plan describing the scope of the licensed activity;
(d) an environmental impact assessment certificate from relevant authorities;

(e) a list of dispensers and storage tanks with its corresponding certificate of approval or any other similar documents as provided by the equipment supplier or manufacturer;

(f) an engineering layout plan duly signed by a registered engineer and which shall specify;

(i) the number of tanks and type of installation;

(ii) the location and distances between building structures, facilities and equipment;

(iii) entry and exit;

(iv) perimeter wall and property boundaries; and

(v) the engineering, design and construction that has been carried out in accordance with approved specifications; and

(f) an engineering layout plan duly signed by a registered engineer and which shall specify;

(g) details of environmental protection measures to be employed to prevent harmful environmental impact resulting from the licensed activity;

Grant of Construction approval

5.–(1) The Authority shall, upon receipt of an application described in rule 4, proceed to evaluate such application and decide whether to grant or deny the application.

(2) The Authority shall, while making a decision whether to grant deny a construction approval, consider if the applicant complied with:

(a) rule 4 (2);

(b) land ownership and land use laws; and

(c) health, safety and environment requirements.

(3) The Authority shall, after issuing a construction approval under sub-rule (1), cause it to be published in the Government *Gazette* as required by the provisions of the Act.

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

(5) The Authority shall, in event that it denies an application for a construction approval, inform the applicant of such decision in writing, including the reasons thereof.

Validity and duration of a construction approval

6.–(1) A construction approval issued by the Authority under rule 5 shall remain in force for such period as the Authority may determine.

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

Notice of Commencement

7. A holder of a construction approval shall issue a notice of commencement of construction to the Authority not less than thirty days prior to the start of construction.

Suspension and revocation of a construction approval

8.–(1) The Authority may, withdraw or suspend a construction approval by notice published in the Government *Gazette,* if any of the terms and conditions thereof has not been complied with.

(2) Where the Authority intends to withdraw, suspend or amend a construction approval it shall, at least twenty-one days before the date of intended revocation, suspension or amendment, notify the holder of such approval about the intention and the reasons thereof.

(3) Notwithstanding the provisions of sub-rule (1) and (2) of this rule the Authority may, by notice published in the Government *Gazette,* withdraw or suspend a construction approval on the application or with the consent of the holder of such approval.

(4) The Authority may, reinstate a construction approval revoked or suspended under sub-rule (1) by notice published in the Government *Gazette,* if satisfied that the reasons for the revocation or suspension are no longer exist.

(5) Without prejudice to the provisions of sub-rule (2), the Authority may, pending the expiry of the notice under that sub-rule and where there are compelling reasons to do so, order the holder of the construction approval to stop the construction work.

Appeal

9. Any person who aggrieved by the decision of the Authority under this Part may lodge an appeal to the tribunal.

PART III
LICENSING PROCEDURES

Licensed activity

10.–(1) Any person shall not conduct a licensed activity without seeking and obtaining a licence.

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

(a) lubricant wholesale business;
(b) lubricant blending business; and
(c) lubricant distribution business.

(3) A person who conducts a licensed activity shall apply to the Authority for a licence in respect of its licensed activity, not later than three months after coming into force of these rules.

(4) Any person who contravenes the provisions of sub-rule (1) and (3) of this rule commits an offence and shall, on conviction, be liable to a fine of the five million shillings or imprisonment for a term not exceeding two years or to both.

Power to enter and close a facility

11. Notwithstanding the penalty prescribed under 10(4), the Authority may, enter upon any licensed facility and close it down in the event it determines that any person has contravened the provisions of rule 10(1) or 10(3).

Lubricant whole sale license minimum require-ment

12.–(1) Any person shall not be issued with a lubricant wholesale licence unless the application meets the necessary minimum technical and financial licensing requirements which are:

(a) written proof of ownership or lease of a lubricant warehouse that complies with Good Petroleum Industry Practices including:
    (i) an emergency exit;
    (ii) sufficient ventilation;
    (iii) spillage containment; and
    (iv) adequate fire fighting equipment.
(b) possession of oil and lubricants handling permit from a relevant authority;

(c) possession of adequate skilled personnel; and;
(d) proof of financial capability which is either;
  (i) a bank statement showing a balance of not less than five hundred million shillings;
  (ii) a bank guarantee of not less than five hundred million shillings; or
  (iii) an unequivocal letter of comfort from a financial institutiona or a bank signed by the Chief Executive Officer of the said Institution or the bank that confirms, that the bank or the financial institution shall extend a loan to the applicant for the amount not less than five hundred million shillings.

(2) Notwithstanding the generality of sub-rule (1), the Authority may issue a licence with specific conditions to be fulfilled within a prescribed time to an applicant who fails to meet some of the requirements in sub-rule (1).

Lubricant blending licence minimum requirement

13.–(1) No person shall be issued with a lubricant bleinding licence unless the application meets the necessary minimum technical and financial licensing requirements which are:
(a) written proof of land use right and owership of a lubricant blending plant that complies with Good Petroleum Industry Practices;
(b) possession of an Environmental Impact Assessment Certificate from the relevant Authority;
(c) possession of adequate skilled personnel;
(d) proof of financial capability which is either;
  (i) previous year's audited financial statements which have been audited by an auditor registered by the National Board of Accountants and Auditors conducting public practice, showing an annual gross turnover of not less than five hundred million shillings and good business track record;
  (ii) a bank statement showing a balance of not less than five hundred million shillings;
  (iii) a bank guarantee of not less than five hundred million shillings; or
  (iv) an unequivalent letter of comfort from a financial

institution or a bank signed by the Chief Executive Officer of the said institution or the bank that confirms that, the bank or the financial institution shall extend a loan to the applicant for the amount not less than five hundred million shillings;

(e) possession of oil and lubricants handling permit from a relevant authority;

(f) possession of a lubricant analysis laboratory certified by a relevant authority or an accredited international body; and

(g) possession of a valid certificate of correctness of a measuring instrument from the Certification Authority.

(2) Notwithstanding the generality of sub-rule (1), the Authority may issue a licence with specific conditions to be fulfilled within a prescribed time to an applicant who fails to meet some of the requirements in sub-rule (1).

Lubricant distribution licence minimum requirement

14.–(1) No person shall be issued with a lubricant distribution licence unless the application meets the necessary minimum technical and financial licensing requirements which are:

(a) a writen proof of ownership or lease of a lubricant warehousing that complies with Good Petroleum Industry Practices including:

(i) an emergency exity;

(ii) sufficient ventilation;

(iii) spillage containment; and

(iv) adequate fire fighting equipment;

(b) possession of oil and lubricants handling permit from the relevant Authority;

(c) names of wholesalers and retailers the applicant has entered dealership agreements with; and

(d) possession of adequate skilled personnel.

(2) Notwithstanding the generality of sub-rule (1), the Authority may issue a licence with specific conditions to be fulfilled within a

prescribed time to an applicant who fails to meet some of the requirements in sub-rule (1).

Licence application

15.–(1) An applicant for a licence shall apply to the Authority for a licence by filling in the appropriate form prescribed by the Authority, and lodge it with the Authority, together with other documents or records as may be required by the Authority or applicable law.

(2) Notwithstanding the provision of sub-rule (1) of this rule, an application for a licence shall be accompanied by:

(a) a non-refundable application fee as prescribed by the Authority from time to time;
(b) certified copies of registration documents of the applicant;
(c) dealership agreement, if any;
(d) if an environmental assessment study has been conducted, a certified copy of the certificate;
(e) a business plan describing the scope of a licensed activity;
(f) proof of financial capability of the applicant;
(g) tax identification number certificate issued to the applicant;
(h) details in respect of land ownership and plant layout as applicable; and
(i) a list of facilities and proof of availability of such facilities to support the proposed business.

Publication of licence applications

16.–(1) A licence application received by the Authority shall be evaluated to verify its completeness and correctness of the information contained therein and thereafter be published in at least two newspapers of wide circulation in Tanzania, one in English and another in Kiswahili, with a view to soliciting comments and representations on the application.

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

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

Grant of licence

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

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

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

(a) the minimum licesing requirements in rules 12, 13, and 14;
(b) the protection of the environment;
(c) objections or representations received from the public pursuant to rule 16;
(d) compliance to land use laws;
(e) the applicant's record of compliance with the Act, these rules and other applicable laws;
(f) compliance of the proposed licensed facility on matters related to"
    (i) safety;
    (ii) health;
    (iii) security;
    (iv) handling of hazardous substances; and
    (v) environment;
(g) any other matter relevant to the orderly conduct of lubricant business in Tanzania.

(3) The Authority shall, in the event that it denies or refers back an application for a licence, informs the applicant of such decision in writing, including the reasons thereof.

Validity and duration of a licence

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

(a) for lubricant wholesale and distribution business, a period of five years; and
(b) for lubricant blending business, a period of twenty years.

(2) A licence shall remain valid for the term stated in sub-rule (1) of this rule, provided, that the Authority may, on the written application by a licensee, extend the period for such further period as the Authority may determine.

(3) Notwithstanding the provisions of sub-rules (1) and (2), a licence shall cease to have effect if the respective licensee fails to commence a licensed activity within six months after issuance of the licence.

Application transfer of a licence

19.–(1) No licence shall be assigned or transferred to another person without a written approval of the Authority.

(2) Any transferee or assignee of a licence shall apply to the Authority by filling in the appropriate form prescribed by the Authority, and may be required by the Authority or applicable law.

(3) Notwithstanding the provisions of sub-rule (1) of this rule no application for a transfer or assignment of a licence shall be entertained by the Authority unless it is endorsed by the transferor or assignor, as the case may be.

(4) A licence transfer application received by the Authority shall be evaluated to verify its completeness and correctness of information contained therein and thereafter a notice of the application shall be published in at least two newspapers of wide circulation in Tanzania, one in English and another in Kiswahili with a view to soliciting comments and representations on the application.

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

(6) The Authority shall, after the expiration of the notice in sub-rule (5) of this rule, evaluate the application together with comments received (if any) and make a decision whether to grant or deny the application for transfer or assignment.

Change of name

20.–(1) A licensee may change the name pursuant to the provisions of these rules and applicable law.

(2) A licensee who has changed the name shall within thirty days after such change notify the Authority in writing, which shall be accompanied by a certificate for change the name issued by the relevant authorities.

Change of share holding structure

21.–(1) Any change in shareholding structure of a licensee shall require a written approval of the Authority.

(2) A licensee intending to change its shareholding structure shall, before applying for the change in shareholding structure to the Registrar of Companies, apply for the approval to the Authority by submitting a letter requesting for the said approval.

(3) A licensee shall, after getting the approval for change of shareholding structure from the Registrar of companies as required by the Companies Act, notify the Authority about such change.

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

Application for renewal of a licence

22.–(1) A licensee shall, make application for a renewal of a licence to the Authority.

(2) Application for a renewal of a licence in sub-rule (1) shall be in an application form to be prescribed by the Authority and shall be made at least three months before expiration of the licence term.

(3) The Authority shall, while making a decision whether to grant or deny an application for renewal of a licence, consider the applicant's compliance to the conditions of the licence which is due to expire.

(4) The Authority shall, in the event that it denies an application for a renewal of licence, inform the applicant of such decision in writing, including the reasons thereof.

Suspension or revocation of a licence

23. A licence may be–

(a) suspended by the Authority in case of serious violation of the licence conditions for a period of twelve months;

(b) revoked by the Authority if a licensee fails to remedy or desist from an act or omission constituting a serious violation within the prescribed time.

24. Any person who is aggrieved by the decision of the Authority under this Party may lodge an appeal to the tribunal, pursuant to the provisions of the Fair Competition Act.

Appeal
Cap. 285

PART IV
GENERAL OBLIGATIONS OF A WHOLESALER, A LUBRICANT OIL BLENDER, A DISTRIBUTOR AND A RETAILER

25. A wholesaler shall:

General obligations of a wholesaler

(a) comply with:
  (i) applicable laws;
  (ii) Orders and directions of the Authority;
  (iii) these rules;
  (iv) Good Petroleum Industry Practices; and
  (v) any guidelines issued by the Authority;
(b) ensure that any lubricant that is imported, blended, stored, transported or sold is approved by the relevant authority and registered by the Authority before it is used in Tanzania including submission of a material data sheet to the Authority;
(c) ensure that lubricant products are adequately packed and the content weight or volume is accurate;
(d) ensure that it only sells lubricants to a distributor it has entered into a dealership agreement with;
(e) only sell lubricants to distributors, lubricant shops and designated consumers;
(f) ensure that a lubricant is marked with the following information:
  (i) manufacturer's name;
  (ii) product brand name;
  (iii) product type;
  (iv) performance level;
  (v) quantity in weight or volume;
  (vi) batch number; and
  (vii) health, safety and environmental precaution;

(g) provide the Authority with a copy of a bill of lading not less than fourteen days prior to the arrival of the vessel importing the lubricant consignment to Tanzania;

(h) upon clearance, provide the Authority with proof of payment of taxes, duties and TBS batch certification of the consignment;

(i) inform the Authority as soon as practicable, not more than twenty-four hours in any event of the occurrence of a dangerous situation or incident related to its licensed activity, or occurring within its licensed facility, including the steps taken or proposed to be taken to remedy such situation or to eliminate or minimize the danger arising from such situation;

(j) upon request, make available to the Authority records of the licensed activity;

(k) print the number of the licence on every accounting document used for its operations with a customer, including invoices, delivery notes, and receipts;

(l) conduct business in such a way that:

(i) customers are treated fairly and equal; and

(ii) comparable services are provided to all customers;

(m) not engage in any activity that disrupts or interferes with competition;

(n) as soon as practicable, notify the Authority in writing not later than thirty days after it becomes aware of the fact that–

(i) if it is unable to conduct its licensed activity;

(ii) if the conduct of its licensed activity would or might lead to the breach of any of these rules, applicable law or materially affect services to the customers; or

(iii) of any material change in circumstance that adversely affects its licensed activity;

(o) cause the operator to be present on the licensed facility at all times;

(p) notify the Authority of any change of its address, name or location not later than seven days after such change;

(q) display its licence or a true copy thereof, duly certified in a conspicuous place at its licensed facility; and

(r) issue an official receipt bearing its registered name and address in all transactions relating to lubricants which shall specifically

set out;

(i) its registered name and address;

(ii) the quantity and price of the lubricant sold; and

(iii) the date of the transaction.

General obligations of a distributor

26. A distributor shall:

(a) comply with:

(i) applicable laws;

(ii) Orders and directions of the Authority;

(iii) these rules;

(iv) Good Petroleum Industry Practices; and

(v) any Guidelines issued by the Authority;

(b) ensure that it enters into a dealership agreement with a holder of a lubricant wholesale licence;

(c) unless the dealership agreement states otherwise, only buy lubricants from a wholesaler it has entered into a dealership agreement;

(d) only buy, transport, store or sell lubricants that are registered by the Authority;

(e) ensure that lubricant products are adequately packed and the content weight or volume is accurate;

(f) ensure that any lubricant that is imported, blended, stored, transported or sold is marked with the following information:

(i) manufacturer's name;

(ii) product brand name;

(iii) product type;

(iv) performance level;

(v) quantity in weight or volume;

(vi) batch number; and

(vii) health, safety and environmental precautions;

(g) submit a material data sheet to the Authority;

(h) inform the Authority as soon as practicable, not more than twenty-four hours in any event of the occurrence of a dangerous situation or incident related to its licensed activity, or occurring within its licensed facility, including the steps taken or proposed to be taken to remedy such situation or to eliminate or minimize the danger arising from such situation;

(i) upon request, make available to the Authority records of the licensed activity;

(j) print the number of a licence on every accounting document used for its operations with a customer, including invoices, delivery notes, and receipts;

(k) conduct business in such a way that:

(i) customers are treated fairly an equally; and

(ii) comparable services are provided to all customers;

(l) not engage in any activity that restricts, disrupts or interferes with competition;

(m) as soon as practicable, notify the Authority not later than thirty days after it becomes aware of the fact that–

(i) if it is unable to conduct the licensed activity;

(ii) if the conduct of the licensed activity would or might lead to the breach of any of these rules, applicable law or materially affect services to the customers; or

(iii) of any material change in circumstance that adversely affects its licensed activity;

(n) notify the Authority of any change of its address, name or location not later than serven days after such change;

(o) display its licence or a true copy thereof, duly certified in a consopicuous place at its licensed facility; and

(p) issue an official receipt bearing its registered name and address in all transactions relating to lubricants which shall specifically set out:

(i) its registered name and address;

(ii) the quantity and price of the lubricant sold; and

(iii) the date of transaction;

General Obligations of LOB

27. An LOB shall:

(a) comply with;

(i) applicable laws;

(ii) Orders and directions of the Authority;

(iii) these rules;

(iv) Good Petroleum Industry Practices; and

(v) any Guidelines issued by the Authority;

(b) ensure that the blending formulation is certified by the appropriate certification body;

(c) only blend lubricants for a holder of a lubricant wholesale licence;

(d) ensure that the testing and measuring instruments used for its licensed activity are accurate and calibrated by the Certification Authority;

(e) on a monthly basis, submit to the Authority a report on the blended lubricant brand which shall include the following particulars:

(i) the owner of such blended lubricant;

(ii) brand of the blended lubricant; and

(iii) the quantity of the blended lubricant;

(f) inform the Authority as soon as practicable, not more than twenty-four hours in any event of the occurrence of a dangerous situation or incident related to its licensed activity or occurring within its licensed facility, including the steps taken or proposed to be take to remedy such situation or to eliminate or minimize the danger arising from such situation;

(g) ensure that waste is safely disposed of in compliance with applicable law;

(h) upon request, make available to the Authority records of the licensed activity;

(i) maintain and make available to the Authority upon request documentary evidence that:

(i) all electrical equipment and installations in the licensed facility relevant for the conduct of its licensed activity comply with existing relevant codes or and applicable law; and

(ii) areas of the licensed facility where flammable gases or vapours may occur comply with existing relevant codes or applicable law;

(j) print the number of a licence on every accounting document used for its operations, including invoices, delivery notes, and receipts;

(k) conduct business in such a way that:

(i) blending customers are treated fairly and equally; and

(ii) comparable services are provided to all blending customers;

(l) not engage in any activities that restrict, disrupt or interfere with competition;

(m) as soon as practicable, but in any event not later than thirty days after it becomes aware of the fact, notify the Authority in

writing:

(i) if it is unable to conduct its licensed activity;

(ii) if the conduct of its licensed activity would or might lead to the breach of any of these rules, applicable law or materially affect services to blending customer; or

(iii) of any material change in circumstance that adversely affects its licensed activity;

(n) cause an operator to be present in the licensed facility at all times;

(o) notify the Authority of any change of its address, name or location not later than seven days after such change; and

(p) display its licence or a true copy thereof, duly certified in a conspicuous place at its licensed facility.

General obligation of a retailer

28. A retailer shall:

(a) comply with;

(i) applicable laws;

(ii) Orders and directions of the Authority;

(iii) these rules;

(iv) Good Petroleum Industry Practices; and

(v) any Guidelines issued by the Authority;

(b) ensure that it enters into a dealership agreement with a holder of a lubricant distribution licence;

(c) unless stated otherwise in the dealership agreement, only buy lubricants from a distributor it has entered into a dealership agreement;

(d) only buy, transport, store or sell lubricant that are approved by the relevant authority and registered by the Authority;

(e) ensure that lubricant products are adequately packed and the content weight or volume is accurate;

(f) ensure that a lubricant container is marked with the following information;

(g) manufacturer's name;

(i) product brand name;

(ii) product type;

(iii) performance level;

(iv) quantity in weight or volume;

(v) batch number; and

(vi) health, safety and environmental precaution;

(h) submit a material data sheet to the Authority;

(i) inform the Authority as soon as practicable, not more than twenty-four hours in any event of the occurrence of a dangerous situation or incident related to its retail business, or occurring within its lubricant shop, including the steps take or proposed to be taken to remedy such situation or to eliminate or minimize the danger arising from such situation;

(j) upon request, make available to the Authority records of the licensed activity;

(k) conduct business in such a way that:

(i) customers are treated fairly and equally; and

(ii) comparable services are provided to all customers;

(l) not engage in any activity that restricts, disrupts or interferes with competition;

(m) notify the Authority in wiriting of any change of its address, name or location not later than seven days after such change;

(n) issue an official receipt bearing its registered name and address in all transactions relating to lubricants which shall specifically set out:

(i) its registered name and address;

(ii) the quantity and price of the lubricant sold; and

(iii) the date of transaction;

Protection of lives and property

29.–(1) A wholesaler, an LOB, a distributor and a retailer shall, while storing, keeping, handling, conveying, using or disposing of a lubricant, take such precautions and exercise such care as may be reasonable under the circumstances and as provided in the material data sheet for each lubricant 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 environment harm.

(2) A wholesaler and an LOB shall dispose of any waste related to lubricant business in a manner and at a place intended for the safekeeping and dumping of such products pursuant to applicable law and Good Petroleum Industry Practices.

Compensation for Loss suffered

30.–(1) A wholesaler, an LOB, a distributor or a retailer shall compensate any person who has suffered loss of life or property as a result of a licensed activity or a retail business as the case may be.

(2) Any person who has suffered loss of life or property as a result of the licensed activity or a retail business shall first, lodge a complaint with a wholesaler, an LOB, distributor or retailer whose licensed activity or retail business, as the case may be, has caused such loss with a view to reaching an amicable settlement.

Cap. 414

(3) In the event no settlement is reached under sub-rule (2), the person who has suffered loss may refer the matter to the Authority and the Authority shall deal with such matter as if it is a complaint lodged pursuant to the provisions of the EWURA Act.

(4) For the purpose of this rule, a person includes an administrator, executor or executrix of the estate of a deceased person.

Insurance

31. A wholesaler, an LOB, distributor or retailer shall ensure that it procures adequate insurance cover for the licensed activity or a retail business as appropriate.

Maintenance of records, provision and disclosure of information

32.–(1) Every wholesaler, an LOB or distributor at all times shall–

(a) keep complete and accurate records and data related to its licensed 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 licensed activity.

(2) Any person who refuses to furnish information or statement as required under sub-rule (1) (b) of this rule or furnishes false information or statement to the Authority shall be liable to a fine of five million shillings.

(3) Any person who refuses to furnish information or statement as required under sub-rule (1) (b) of this rule or furnishes false information or statement to the Authority for the second time shall be liable to pay a fine of ten million shillings and shall have its licence suspended for a period of twelve months.

Confidential information

33.–(1) Any information received by the Authority from a supplier pursuant to these rules and applicable law shall be presumed not to be confidential.

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

(3) A supplier may request the Authority not to circulate specific data or information that it has provided to the Authority, provided, that only the Authority shall determine that such information is confidential.

(4) The Authority shall limit or prohibit the publication of any information to the public in the event it makes a determination that such information is confidential.

34. Any wholesaler, LOB, distributor or retailer who contravenes any of the provisions of rules, 25, 26, 27 and 28 shall be liable to the penalties prescribed under the Schedule. Penalty

PART V
ENVIRONMENT PROTECTION

35.–(1) Every supplier shall comply with the requirements of all applicable environmental laws and standards related to a licensed activity. Compliance with environment laws and standards

(2) Subject to applicable law a supplier shall:

(a) carry out an environmental impact assessment when establishing a licensed facility, or making a major improvement to an existing facility;

(b) take all necessary preventive measures to avoid pollution resulting from its licensed activity;

(c) observe strict environmental, health and industrial safety standards as required by applicable laws; and

(d) perform an environmental audit related to licensed activity in accordance with applicable laws.

(3) For the purpose of sub-rule (2) (a) the term "major improvement" means an improvement that aims at expanding the size of the licensed facility and increasing the number os storage tanks.

Sanctions on events of violations

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

PART VI

TECHNICAL OBLIGATIONS OF A SUPPLIER

Compliance with specifications and standards

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

(2) A supplier shall not deviate from any approved specification without prior approval of the Authority and the Authority shall not grant such an approval unless it is satisfied that such deviation is for public interest and will not negatively affect public safety and environment.

Execution of a dealership agreement

38.–(1) No distributor or retailer shall conduct lubricant distribution business or lubricant retail business unless they have entered into a dealership agreement with a wholesaler or a distributor, as the case may be..

(2) A wholesaler or a distributor, shall within thirty days after receipt of a written request for a dealership agreement from a distributor or a retailer as the case may be, notify such distributor or retailer whether it has accepted or denied such request.

(3) A wholesaler and distributor or a distributor and a retailer shall execute and make available to be Authority upon request a dealership agreement.

(4) The dealership agreement shall include the following minimum mandatory requirements:

(a) the name and physical address of the parties;
(b) the business licence numbers of the parties;
(c) the brand name of the lubricant;
(d) limitation on liability of parties; and

(e) obligations to be bound by the legal requirements on health, safety and environment requirements.

(5) A wholesaler or distributor may refuse a request for a dealership agreement made by a distributor or a retailer pursuant to sub-rule (2), as the case may be, where the request made is not economically or technically feasible and may result in a wholesaler being unduly prejudiced.

(6) In the event a wholesaler or a distributor denies a request for a dealership agreeement pursuant to sub-rule (5) it shall give reasons in writing.

(7) In the event a distributor or a retailer is aggrieved by the refusal of the wholesaler or a distributor under sub-rule (5) or the termination of the dealership agreement under Rule 41 the distributor or the retailer, as the case may be, may refer the matter to the Authority and the Authority shall deal with such matter as if it is a complaint lodged pursuant to the provisions of Part VI of the EWURA Act. Cap. 414

(8) Notwithstanding the generality of this rule, a wholesaler shall identify and prepare a list of all distributors it has a dealership agreement with pursuant to sub-rule (2).

Provision of technical support

39.–(1) A wholesaler shall provide technical support to a distributor with whom it has a dealership agreement and shall ensure that its lubricants distribution business is conducted in accordance with these rules and its licensed facility complies with the requirements prescribed in these rules.

(2) A distributor shall–

(a) be deemed to be an agent of a wholesaler with whom it has a dealership agreement, and the said wholesaler shall be responsible for all the conducts of the distributor; and

(b) provide technical support to a retailer with whom it has a dealership agreement and shall ensure that its lubricant retail business is conducted in accordance with these rules and its retail outlet complies with the requirements prescribed in these rules.

(3) A retailer shall be deemed to be an agent of a distributor with whom it has a dealership agreement, and the said distributor shall be responsible for all the conducts of the retailer.

Preparation and submission of a plan

40. A wholesaler and a distributor shall within six months after coming into force of these rules prepare a plan submit it to the Authority which shall include:

(a) a list of all distributors or retailers, it has entered into a dealership agreement with, pursuant to rule 38;
(b) a detailed plan on how to provide technical support to dealers as required by rule 39; and
(c) detailed plan on how it will monitor the performance of distributors or retailers, it has entered in a dealership agreement with as the case may be.

Termination of a dealership agreement

41.–(1) Any party to a dealership agreement may terminate the dealership agreement, provided that, a prior notice of sixty days or such other period as provided in the agreement is given to the other party pursuant to such agreement.

(2) Notwithstanding any agreement to the contrary and without prejudice to the provisions of sub-rule (1), any party to a dealership agreement may terminate the dealership agreement it has entered into, where it determines that the operations of the other party is in violation of these rules or applicable laws.

Offence

42.–(1) Any person who contravenes the provisions of rule 38(1) commits an offence and shall upon conviction be liable to a fine of not less than three million shillings or imprisonment for a term of three years or both.

(2) Any person who contravenes the provisions of rule 38(1) for the second time shall be liable to a fine of five million shillings and shall have its licence suspended for a period of twelve months.

Prohibition to decant

43.–(1) No person shall decant or repack a lubricant for purposes of sale unless authorized in writing by the Authority.

(2) A distributor duly authorized under sub-rule (1) shall not decant a lubricant of wholesaler in the absence of the written authorization of:

(a) the lubricant brand owner; or

(b) the entity that is entitled to posses such lubricant.

(3) A distributor duly authorized pursuant to sub-rule (2) of this rule shall, before decanting a container, conduct a thorough inspection of such lubricant container to ensure that it is not damaged.

Prohibition on under filling

44.–(1) The net lubricant quantity contained in a container shall not be less than the content specified in the container and any shortfall in the lubricant quantity contained shall constitute underfilling.

(2) The following circumstances shall raise a presumption that a container is under filled:

(a) a broken seal;

(b) a seal that has been tampered with; or

(c) the absence of a seal.

(3) Possession of an under filled container that has not been so identified or that has not been removed from a licensed facility, shall raise a presumption that such container is for sale.

Reference of violation to the Certification Authority

45. A wholesaler, an LOB or distributor who sells, offers for sale, packs or distributes an under filled container shall be referred to the Certification Authority for action.

Deceptive trade practices

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

(a) the brand name of a lubricant; and

(b) lubricant's composition, grade or quantity.

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

Storage of a lubricant

47.–(1) A wholesaler, a LOB and a distributor shall:

(a) locate, construct, maintain and operate its works connected with storage of a lubricant in accordance with these rules, respective licence, applicable laws and Good Petroleum Industry Practices; and

(b) conduct its licensed activity in such a way as not to endanger public health or safety.

(2) A wholesaler, a LOB and a distributor shall mark with conspicuous signs the storage tanks and containers of each product as per the applicable law.

(3) A wholesaler, LOB and distributor shall, when storing a lubricant, employ appropriate safeguards to ensure that a leak is easily detected.

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

Provision for fire extinguishing equipment

48.–(1) A wholesaler, an LOB and a distributor shall provide and maintain adequate fire extinguishing equipment at a licensed facility as required by applicable laws and Good Petroleum Industry Practices.

(2) A wholesaler, an LOB and a distributor shall, not less than once a year, test the fire extinguishing equipment pursuant to its specification and applicable laws.

Preparation of fire emergency plan

49. An LOB shall establish a fire emergency plan to the employed in the event of a fire at a licensed facility that shall–

(a) include a suitable and adequate fire-fighting plan that comprises of:

(i) the locations and types of all fire-fighting equipment; and

(ii) an action plan that identifies, *inter alia*, assembly points and the tasks of all employees;

(b) include provisions for the training of employees to deal with a fire emergency situation, the records of which shall be preserved;
(c) be provided to employees employed in or on the licensed facility; and
(d) be made available to the Authority on request.

Inspection of a licensed facility

50.–(1) The Authority may, at any time, access and inspect a licensed facility equipment and document pursuant to these rules and applicable laws.

(2) A wholesaler, a LOB or a distributor, shall render assistance to inspectors as may be required in the course of inspection as the case may be.

(3) Notwithstanding the generality of sub-rule (2) an inspector shall have the right and obligation to enter upon any lubricant shop for the purpose of conducting an inspection.

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

Prohibited acts against inspectors

51.–(1) A wholesaler, LOB, distributor or retailer shall not:
(a) hinder or obstruct an inspector in the exercise of any of the powers conferred upon him under these rules;
(b) use abusive, threatening or insulting language to an inspector;
(c) deny or fail to comply with a requirement, direction or notice of an inspector; and
(d) when required by an inspector to answer a question, deny or fail to answer such question to the best of his knowledge, information and belief.

(2) Any person who contravenes the provision of sub-rule (1) commits an offence and shall be liable, to a fine of five million shillings or to imprisonment for a term not exceeding two years or both.

Decommissioning procedure

52.–(1) A licensed facility may, subject to the provisions of this rule, be decommissioned:

(a) after receipt of a written application for decommissioning from an LOB;

(b) by an Order of the Authority where it is satisfied that, such facility has been abandoned by the licensee for a period of not less than three months; or

(c) by an Order of the Authority that, the same be decommissioned after the Authority is satisfied that, the continued operation of such facility poses danger to lives and property.

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

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

Site restoration

53.–(1) An LOB shall, prior to decommissioning a licensed facility, restore the licensed facility to its original state so that it does not pose a threat to the environment or the safety and health of the public.

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

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

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

(b) to render the area in which the licensed facility is located, or part thereof, compatible with its intended after-use, including:
   (i) removing buildings, structures, plant and debris;
   (ii) establishing compatible contours and drainage;
   (iii) replacing top soil, re-vegetation, slope stabilization; and
   (iv) infilling of excavations.

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

PART VII
PENALTIES AND REMEDIAL MEASURES

Penalties and remedial measures

54. The Authority may, without prejudice to the penalties prescribed in these rules and applicable law where it determines that a supplier is in violation of these rules or applicable laws:
   (a) issue a warning;
   (b) issue a Compliance Order restraining the supplier from continuing violation of applicable law;
   (c) restrict the conduct of a licensed activity or retail business;
   (d) order the supplier to remedy any situation as a result of such violation;
   (e) issue a partial suspension of a licence or suspend it for such period as the Authority may determine; or
   (f) revoke a licensce.

Appeal

Cap. 285

55. Any person who is aggrieved by the decision made by the Authority under rule 54 may lodge an appeal to the Tribunal, within twenty one (21) days from the date of the decision, pursuant to the provisions of the Fair Competition Act.

PART VIII
GENERAL PROVISIONS

Power to enter and close the facility

56.–(1) Notwithstanding any provision of these rules an inspector shall have the right and obligation to enter upon any licensed facility or lubricant shop and close it down where he determines that a licensed activity or retail business is being conducted in contravention of these rules.

(2) An inspector may, while discharging his obligation provided in sub-rule (1) seek the assistance of law enforcement institutions including the police and such institutions shall provide the requested assistance.

Transitional Provisions

57.–(1) All wholesalers, LOBs, distributors or retailers whether licensed or not shall, within six months after coming into force of these rules, adjust their operations and upgrade their facilities in order to comply with the provisions of the Act and these rules.

(2) Without prejudice to the generality of sub-rule (1), any wholesaler, LOB or distributor conducting a licensed activity without a licence shall, within six months after coming into force of these rules, apply to the Authority for a licence.

General penalty

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

The Authority to supplement procedures

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

SCHEDULE

(Made under Rule 36)

S/N	Operator Details	Specific Rule that has been violated	First Offence	Second Offence	Third Offence
1.	Wholesaler	Rule 25	A fine of five million shillings	A fine of ten million shillings	Licence Revocation
2.	Distributor	Rules 26	A fine of three million shillings	A fine of five million shillings	Licence Revocation
3.	Lubricant Oil	Rules 27 Blender	A fine of five million shillings	A fine of ten million shillings	Licence Revocation
4.	Retailer	Rules 28	A fine of one million shillings	A fine of three million shillings	Closure of a Lubricant shop

Dar es Salaam
18th February, 2014

MUTAEKULWA MUTEGEKI,
Acting Director General