PETROLEUM PIPELINES REGULATION

Information to assist licence applicants to file licence applications in terms of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)

Version 3

March 2017

DISCLAIMER

These guidelines are intended for general information only to assist applicants and do not constitute legal advice, nor do these guidelines represent binding decisions on the National Energy Regulator (NERSA). Where NERSA's interpretation of any law is given, this is not absolute and will in any decision made by NERSA depend upon the particular circumstances of the particular matter at hand. Although care has been taken to ensure the accuracy and completeness of the information contained in these guidelines, NERSA is not responsible for any loss or damage resulting from reliance on any inaccurate information contained in this document. The reader is therefore advised to also read the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003) and the Rules made in terms thereof. The reader is also advised to read the Petroleum Pipelines Regulations, 2008 for other requirements licensees must comply with.
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A. DEFINITIONS

In this document:

‘LPG’ means Liquefied Petroleum Gas

‘petroleum facilities’ means petroleum pipelines, petroleum loading facilities and petroleum storage facilities, collectively

‘PPA’ means the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)

‘Regulations’ mean the Regulations made by the Minister in terms of section 33(1) & 33(2) of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)

‘Rules’ mean the Rules made by the Energy Regulator in terms of section 33(3) of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)
B. NERSA’S ROLES AND RESPONSIBILITIES

1. The National Energy Regulator (NERSA) was established in terms of section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) to regulate the petroleum pipelines industry. The powers and duties of NERSA are listed in section 4 of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003) (‘PPA’). One of these powers is to issue licences for the construction, operation and conversion of petroleum pipelines, petroleum storage facilities and petroleum loading facilities.

2. NERSA does not regulate the selling and buying of petroleum (including the price of petroleum). This is regulated by the Department of Energy in terms of the Petroleum Products Act, 1977 (Act No. 120 of 1977).

3. Licences for the construction, operation and conversion of petroleum pipelines, petroleum storage facilities and petroleum loading facilities are only issued to owners of these facilities.

4. As prescribed by section 33(3) of the PPA, NERSA has published Rules that must be followed when applying for a licence.

5. Licences issued by NERSA are subject to licence conditions that deal with matters such as access to and tariffs to be charged for services relating to the use of petroleum pipelines, petroleum storage facilities and petroleum loading facilities.

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1 As well as the Electricity and Piped-Gas industries.
2 For more information visit www.energy.gov.za
3 Available at www.nersa.org.za under Legislation>Petroleum Pipelines>Petroleum Pipelines Rules
C. DEFINITION OF ‘PETROLEUM’ UNDER THE PPA

Petroleum means\(^4\) **crude oil** and **petroleum products**.

C.1 Crude Oil

means **natural mineral oil, including condensate**.

C.2 Petroleum Product

means any **liquid** petroleum fuel and lubricant, whether used or unused (includes any other substance which will be used for a purpose for which petroleum fuel or any lubricant may be used).

C.3 Liquefied Petroleum Gas (LPG)

in liquid form only is a petroleum product in terms of the PPA. In its gaseous form, LPG is still regulated by NERSA, but under the Gas Act, 2001 (Act. No 48 of 2001).

D. PETROLEUM FACILITIES REGULATED BY NERSA

D.1 Loading Facilities

(a) The PPA defines a loading facility as:

*any marine facility* that is or can be used to load or off-load petroleum and includes any auxiliary pipelines connected thereto but excludes bunkering facilities

(b) NERSA understands this to mean that the pipelines connected to the loading facility must facilitate the loading and off-loading of petroleum via the loading facility. Pipelines connected to a loading facility, but serving a different purpose are not auxiliary and will be licensed separately.

(c) Typically, loading arms on the berth are used, but a manifold with flexible hose connectors used for loading and off-loading of petroleum are also included under the term ‘any marine facility’. Any type of offshore, floating facility and its associated auxiliary subsea pipeline falls under the definition of ‘loading facility’ under the PPA.

D.2 Pipelines

The pipelines regulated under the PPA are only those used or intended to be used to transport petroleum.

\(^4\) Section 1 of the PPA
**Pipelines excluded in the definition in the PPA**

Pipelines located on the premises of:
(a) a manufacturer of petroleum products (i.e. premises where manufacturing of petroleum products takes place);
(b) a storage facility (e.g. pipelines connecting tanks in a facility);
(c) a retailer of petroleum products (i.e. premises where retailing of petroleum products takes place); and/or
(d) an agricultural cooperative;
\textbf{do not require a licence from NERSA.}

**D.3 Storage Facilities**

Storage facilities regulated by NERSA under the PPA must be used or be intended to be used for the \textbf{bulk storage of petroleum.}

\textit{What is BULK storage?}

(a) The word ‘bulk’ is not defined in the PPA.
(b) NERSA has, in terms of section 15(2) (a) of the PPA, determined that only the storage facilities that fall in any of the categories in \textit{Table 1: Bulk Storage Facilities} below, qualify as ‘bulk storage facilities’ and must be licensed.
(c) However, owners of storage facilities that do not fall under any of the categories in \textit{Table 1: Bulk Storage Facilities} below, \textbf{must} submit information about their facilities to the Energy Regulator for verification and confirmation that they do not require a licence. The \textbf{FORM} that must be used for this purpose can be found on page 16 of this document as well as on the NERSA website and is also available on request.
Table 1: Bulk Storage Facilities

<table>
<thead>
<tr>
<th>Category 1:</th>
<th>All crude oil and condensate storage facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category 2:</td>
<td>All petroleum products (excluding LPG) storage facilities:</td>
</tr>
<tr>
<td></td>
<td>(i) connected to a marine loading facility (regardless of size);</td>
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<tr>
<td></td>
<td>(ii) connected by pipeline to a marine loading facility (regardless of size);</td>
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<tr>
<td></td>
<td>(iii) connected to Transnet’s petroleum pipeline system (regardless of size); or</td>
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<tr>
<td></td>
<td>(iv) not falling under (i) to (iii) above but with a design capacity exceeding 1.5 million litres.</td>
</tr>
<tr>
<td>Category 3:</td>
<td>All LPG storage facilities:</td>
</tr>
<tr>
<td></td>
<td>(i) connected to a marine loading facility (regardless of size);</td>
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<tr>
<td></td>
<td>(ii) connected to a pipeline that is connected to a marine loading facility (regardless of size); or</td>
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<tr>
<td></td>
<td>(iii) not falling under (i) and (ii) above but with a design capacity exceeding 1 000 tonnes.</td>
</tr>
<tr>
<td>Category 4:</td>
<td>Storage facilities that comprise a mixture of Categories 2 and 3 with a combined design capacity exceeding 1.5 million litres.</td>
</tr>
<tr>
<td>Category 5:</td>
<td>Storage facilities that comprise a mixture of category 1 and either category 2 or category 3 or both categories 2 and 3.</td>
</tr>
</tbody>
</table>

**Storage Facilities excluded in the definition in the PPA**

The following bulk petroleum storage facilities are excluded from the definition of storage facility and do not require a licence from NERSA:

(a) Storage facilities on the premises at which petroleum products are manufactured and where such storage facilities are integral to the process of manufacturing.

(i) Storage tanks that are located on the premises where manufacturing of petroleum product takes place but are not integral to the manufacturing process require a licence.

(ii) Storage tanks that are integral to the process of manufacturing but are not located at the premises where manufacturing of petroleum products takes place require a licence.

(b) Storage facilities for own final use.

(i) NERSA understands this exclusion to mean that the storage facilities must only be used to store petroleum that the owner of the facility uses or intends to use itself.

(ii) Storage facilities used to store petroleum which is:

- to be sold; or
- to be delivered to another user; require a licence.
(c) Storage facilities used for the **retailing of petroleum products** to the public. NERSA understands this exclusion to mean that:

(i) storage facilities must be used to store petroleum products to be sold to an **end customer**\(^5\) i.e. the customer must consume the petroleum product itself and not sell it on;

(ii) the end customer must be a member of the general public\(^6\) and not a member of an exclusive or limited group of consumers such as members of a particular society; and

(iii) to qualify under this exclusion, the facility must be used to retail **LPG** in its **liquid form** to members of the public.

**NOTE:** A petroleum storage facility that is **partly** used for any of the abovementioned purposes and partly for a purpose that requires licensing under the PPA must be licensed by NERSA.

**E. APPLYING FOR A LICENCE**

**E.1 How to Apply**

The **Rules**\(^7\) made by NERSA prescribe a **form**\(^7\) that must be completed in full. The form has three chapters and **must** be submitted together with all other documents requested in the form. The licence application **must** be addressed to the Executive Manager: Petroleum Pipelines Regulation; **and** be

(a) hand delivered (including by courier) at Kulawula House, 526 Madiba Street, Arcadia, Pretoria; **OR**

(b) posted by registered mail to PO Box 40343, Arcadia 0007; **OR**

(c) emailed to pipelines@nersa.org.za; **OR**

(d) faxed to 012 401 4700.

**E.2 Who Must Apply**

The **owner** of an existing petroleum facility or a petroleum facility to be constructed must apply for a licence. The owner can authorise another person (such as an employee, a co-owner or a third party) to submit a licence application on its behalf to NERSA.

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\(^5\) Polpark Dispensary (Pty) Ltd v SA Pharmacy Board 1978 (2) SA 816 (A); Department of Customs and Excise v Maybaker (Sa) (Pty) Ltd 1982 (3) SA 809 (A)

\(^6\) Gold Fields Ltd and Another v Harmony Gold Mining Co Ltd and Others 2005 (2) SA 506 (SCA)

\(^7\) Available at [www.nersa.org.za](http://www.nersa.org.za) under legislation>Petroleum Pipelines>Petroleum Pipelines Rules
E.3 Information to be submitted

The information that must be submitted with the licence application form is listed in section 16(2) of the PPA, chapter 2 and chapter 3 of the licence application form. Below is an explanation of some of the information licence applicants are required to submit and that some applicants have indicated needs clarification.

Proof of authorisation

(a) Where the owner has authorised another person to submit a licence application on its behalf, proof of such authorisation must be submitted with the application. NERSA accepts certified copies of the following as proof of authorisation:
   (i) A Board Resolution; or
   (ii) A Power of Attorney.

(b) If the owner is a Trust, a resolution of the trustees authorising any one or more of them to apply for the licence that reflects the names of the trustees that attended this meeting and each one’s vote for or against the resolution must be submitted with the application.

Proof of ownership

(a) When applying for a licence, the owner or persons authorised by the owner to submit the licence application must submit documentary proof of ownership of the petroleum facilities. Where the petroleum facility is owned by more than one person, proof of this ownership arrangement must also be submitted.

NOTE: the PPA is concerned with the ownership of the facility itself NOT the land on which a facility is located.

(b) However, where the owner of petroleum facilities is also the owner of the land on which the petroleum facilities are located, NERSA accepts a Deed of Transfer/Title Deed as proof of ownership.

(c) Where the owner of the petroleum facilities is not the owner of the land on which the petroleum facilities are located, NERSA accepts the following as proof of ownership:
   (i) Sales Agreement transferring ownership of the facility to the licence applicant; or
   (ii) an affidavit (solemn declaration) confirming ownership of the facility by the person applying for the licence.

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8 Section 16(1) – An person who has to apply for a licence in terms of section 15 must be the owner of the pipelines or the facility in question
**Administrative Abilities**

(a) Both the PPA and the Rules require the owner of the petroleum facility to submit proof of its administrative abilities to operate or construct the petroleum facilities.

(b) NERSA accepts the following as proof of administrative abilities:
   1. the applicant’s organogram or profile, which must include information relating to the qualifications and experience of the applicant’s staff;
   2. where the facility is operated, or constructed by another entity, a copy of that entity’s organogram or profile; or
   3. for a construction licence application, the applicant must also submit a project matrix.

**Financial Abilities**

(a) Both the PPA and the Rules require the owner of the petroleum facility to submit proof of its financial abilities to operate or construct the petroleum facilities.

(b) For greenfield projects, the Rules also require the submission of information on the economic, market and financial forecasts upon which the proposed project to be licensed is based⁹.

(c) To enable NERSA to assess the financial abilities of the applicant and/or financial viability of a project, applicants are required to submit the information listed below. However, (except for the tariff application) NERSA will also accept any other information that will enable it to do the financial abilities/viability assessment.

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⁹ For example see Chapter 3 of Form B: Application for a licence under information required for the construction of a petroleum pipeline
(i) Licence Applications for Greenfield Projects

<table>
<thead>
<tr>
<th>Project Information</th>
<th>Applicant is a newly established registered entity</th>
<th>Applicant is an established entity or a sister company or subsidiary of an established entity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Structure</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Feasibility study/ business case</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Cost breakdown</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Off-take agreements or signed commitment letters stating volumes and conditions</td>
<td></td>
</tr>
<tr>
<td>Equity</td>
<td>Signed shareholders’ agreement clearly showing the amount of funds each shareholder will inject into the project and the source of such funding</td>
<td>Board resolution to fund the project</td>
</tr>
<tr>
<td>Cash Reserves</td>
<td>Signed letter/statement from a bank (indicating portions ring-fenced for the project)</td>
<td></td>
</tr>
<tr>
<td>Debt</td>
<td>Term sheets from financers that they are funding the project and conditions of financing ALTERNATIVELY, a letter of commitment from the bank containing the same information</td>
<td></td>
</tr>
<tr>
<td>Anticipated Project performance</td>
<td>• Project finance model (Forecast model for at least 3 years)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Tariff Application [Rule12 (7)]</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) electronic models containing all calculations;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) for pipeline tariffs, all information required in terms of the Energy Regulator’s Tariff Methodology for the Petroleum Pipelines Industry to enable the Energy Regulator to set the tariffs for the pipeline;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) for tariffs for storage facilities and loading facilities:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) proposed tariffs and details regarding the methodology used to determine such tariffs which methodology must comply with the Regulations made in terms of the Act, and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii) all information necessary to enable the Energy Regulator to apply the Energy Regulator’s tariff methodology.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Note</strong>: At this stage, the tariff application will not be assessed for approval. Instead NERSA will use this information to assess the viability of the project.</td>
<td></td>
</tr>
<tr>
<td>Financial Position &amp; performance</td>
<td>Projected financial statements</td>
<td>Complete set of audited financial statements for at least 3 financial periods.</td>
</tr>
</tbody>
</table>

(ii) Licence application for existing facilities

For licence applications for existing facilities – e.g. adding tanks at an already existing storage facility – the entity’s latest audited financial statements are required.

For construction licences, the following is also required:

- off-take agreements or signed commitment letters stating volumes and conditions; and
- Tariff Application [Rule12 (7)] (see table above).
Technical Abilities

(a) Both the PPA and the Rules require the owner of a petroleum facility to submit proof of its technical abilities to construct or operate the petroleum facilities.

(b) NERSA accepts the following as proof of technical abilities:
   (i) proof that the applicant employs people with the relevant skills and experience to operate or construct the facility or has contracted a technical partner to assist;
   (ii) if a technical partner is appointed, details relating to the qualifications, skills and experience of the technical partner (including a list of other similar projects undertaken); and
   (iii) for construction licences, the project management structure or the details of the entity that will oversee the project execution, including their abilities or company profiles or details of similar projects successfully undertaken.

Environmental Authorisation

(a) The Rules require the submission of a certified copy of the Reasons of Decision granting the authorisation.

(b) Alternatively, NERSA will accept:
   (i) proof that an application for the authorisation has been submitted e.g. an acknowledgment letter with a reference number from the relevant authority; OR
   (ii) an affidavit (solemn declaration) outlining the applicant’s plans and ability to comply with labour, health, safety, security and environmental legislation\(^\text{10}\).

Historically Disadvantaged South Africans (HDSAs)

(a) One of the objects of the PPA is:

\[\text{to promote companies in the petroleum pipeline industry that are owned or controlled by historically disadvantaged South Africans…}\]

\(^{10}\) Section 16(1)(f) of the PPA
(b) In terms of the Rules and the Regulations\textsuperscript{11}, applicants for a licence must submit their commercial arrangements made for the participation of HDSAs in the activities to be licensed, which must include:

(i) the number of shareholders from a historically disadvantaged background and their respective shareholding in the company that holds or will hold the licence;

(ii) the numbers and positions of HDSAs who are members of the Board of Directors of the company that holds or will hold the licence;

(iii) the numbers and positions of HDSAs who hold senior management positions in the company that holds or will hold the licence;

(iv) the value and percentage of subcontracted work to companies with more than 50\% ownership by HDSAs;

(v) proof of compliance with the Employment Equity Act, 1998 (Act No. 55 of 1998); and

(vi) the plans for and actions taken to develop HDSAs in the petroleum sector through training, procurement and enterprise development.

\textit{Other Information}

NERSA may also request a licence applicant to submit any other information necessary to consider the licence application properly.

\textbf{E.4 Confidential Treatment of Information}

(a) According to the PPA and the Rules, licence applications must be made available for inspection by members of the public. A licence applicant must keep a copy of the public version of the licence application:

(i) at its offices (principal place of business); and

(ii) on its website (if available).

NERSA will also place a copy of the public version of the licence application on its website.

(b) If the applicant is concerned about disclosing information in the application that it considers to be confidential, the applicant must submit a form\textsuperscript{12} prescribed in the Rules, requesting confidential treatment of such information and NERSA will decide whether or not the particular information is confidential.

(c) The form requires the applicant to support its request by providing the following information on a separate sheet of paper and in a tabular format:

(i) name of the document that contains the confidential information;

(ii) page, paragraph and line numbers at which the confidential information begins and ends;

\textsuperscript{11} See chapter 2 of the licence application form (item17) as well as regulation 8 of the Regulations

\textsuperscript{12} Form A: Application for confidential treatment of Information submitted to the Energy Regulator –page 19 of the Rules
(iii) facts and evidence supporting the request for confidential treatment;
(iv) the economic value of the confidential information (where appropriate);  
and
(v) applicable sections of the PPA and PAIA\(^\text{13}\) that the applicant relies on  
for the request.

(d) A request for confidential treatment of information that is contained in a  
licence application that does not provide the information in (i) to (v) above  
will not be considered by NERSA.

**E.5 Notice of Incomplete Licence Application**

(a) NERSA will **only accept** a licence application if the application form is  
completed in full and is submitted together with all the requested  
information.

(b) If the licence application does not meet these requirements, NERSA will  
issue the licence applicant with a **Notice of an Incomplete Licence  
Application**, directing the applicant to submit the missing/outstanding  
information within a period indicated in the notice.

(c) If the missing information is not submitted in time, NERSA will inform the  
applicant that its licence application is incomplete and cannot be processed.

**E.6 Notice of a Licence Application**

(a) According to the PPA (read together with the Rules):

(i) **the licence applicant must** publish a notice of the application in at  
least **two (2) newspapers**\(^\text{14}\) circulating in the area of the proposed  
activity – one notice must be in English and the other in any of South  
Africa’s other official languages; and

(ii) copies of the two notices as they appear in the newspapers, must be  
submitted to NERSA on the day of publication at  
pipelines@nersa.org.za.

(b) The **Template: Notice of a Licence Application** may be used and can be  
found on page 14 of these guidelines.

(c) The notice of an application for a licence must contain the following  
information:

(i) the name of the applicant;

(ii) the object of the application;

(iii) the NERSA-issued reference number;

(iv) the place where the licence application will be available for inspection  
by the public;

(v) the period within which objections to the issuing of the licence may be  
lodged with NERSA;

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\(^\text{13}\) Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

\(^\text{14}\) Regardless of whether the newspapers are distributed daily or weekly
(vi) the way objections may be submitted to NERSA;
(vii) a statement directing objectors to submit objections together with an affidavit/solemn declaration to substantiate the objection; and
(viii) a statement alerting objectors to the fact that NERSA will not consider any objection submitted after the period mentioned above.
## Annexure A: Bulk Storage Verification and Confirmation Form

<table>
<thead>
<tr>
<th>SECTION A</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name of Facility Owner</strong></td>
</tr>
<tr>
<td><strong>Contact Details</strong></td>
</tr>
<tr>
<td><strong>Location</strong></td>
</tr>
<tr>
<td><strong>GPS Coordinates</strong></td>
</tr>
<tr>
<td><strong>Activity (If constructing on an existing facility, tick both)</strong></td>
</tr>
<tr>
<td><strong>Products</strong></td>
</tr>
<tr>
<td><strong>Type of Facility</strong></td>
</tr>
<tr>
<td>Design capacity of the storage facility</td>
</tr>
<tr>
<td>Design capacity of the new storage facility or tanks</td>
</tr>
</tbody>
</table>

| **Yes/No** |
| 1) Is it connected to a marine loading facility? |
| 2) Is it connected to a pipeline that is connected to a marine loading facility? |
| 3) Is it connected to Transnet Ltd's petroleum pipeline system? |
| 4) Is it located on the premises where petroleum products are manufactured? |
| (a) Is it integral to the process of manufacture? |
| 5) Is it only used for own use? |
| 6) Is it only used for retailing directly to the public? |
| 7) Is it used by an agricultural cooperative exclusively for its members? |
| 8) Is it used to transport petroleum by road, rail, sea and air? |
| 9) Is this an LPG facility? |
| (a) If yes, is it a cylinder filling facility? |
| (b) If yes, does it exclusively retail filled cylinders directly to the public? |

**COMMENTS:**
SECTION B: 
SOLEMN DECLARATION BY OWNER OR MANDATED REPRESENTATIVE

I (full names) ..........................................................................................................................
Identity Number..................................................................................................................... hereby declare that:

(a) I am authorised by .................................................................................................to make this declaration (attach the authorisation); and
(b) all information provided in the attached Bulk Storage Facility Verification Form is within my personal knowledge and is both true and correct.

Signed at .............................................. (place) on this.................................day of
.............................................. (month) .................................(year).

........................................................
Signature

I certify that the deponent:
(a) has acknowledged that she/he knows and understands the contents of this application form and its annexures, that she/he has no objection to taking the prescribed oath and that she/he considers the oath binding on her/his conscience; and
(b) has in the prescribed manner sworn that the contents of this application form and its annexures are true and signed same before me at
.......................................................... (place) on this .................................
day of..................................................(month) .................................(year).

COMMISSIONER OF OATHS
Name
Address
Capacity
Annexure B: Request for Confidential Treatment of Information

NAME OF REQUESTER:
IN THE MATTER OF:
Reference/ Licence Number:

In this document:
‘PAIA’ means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)
‘PPA’ means the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)
‘NKPA’ means the National Key Point Act, 1980 (Act No. 102 of 1980)

<table>
<thead>
<tr>
<th>Document Name</th>
<th>Page, Paragraph &amp; Line No.</th>
<th>Fact &amp; evidence in support of request including economic value – as per request</th>
<th>The nature of economic value of information (where appropriate)</th>
<th>Legal basis for request (i.e. relevant provision of PPA, PAIA or any other legislation e.g. NKPA)</th>
</tr>
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Annexure C: Notice of a Licence Application Template

ENTITY NAME

NOTICE OF A LICENCE APPLICATION IN TERMS OF SECTION 17 OF THE PETROLEUM PIPELINES ACT OF 2003 (ACT NO. 60 OF 2003)

INTERESTED PARTIES ARE HEREBY NOTIFIED:

That, Company Name (company registration number) has submitted an application to the National Energy Regulator (NERSA) for a licence to operate/construct/convert a petroleum pipeline/petroleum storage facility/petroleum loading facility at (place where the facility is or is to be located).

NERSA Application Reference No: (PPL.sf.F3/---/2013)

The licence application is available to the public for inspection between 08:00 and 16:30 daily (Saturdays, Sundays and public holidays excluded) from (date of the publication of the notice) until (the last day of the period of objections) at:

• Company address
• Contact Person [Name: Telephone:
• NERSA, Kulawula House, 526 Madiba Street, Arcadia, PRETORIA Telephone: 012 401 4600

The licence application is also available at: (applicant’s website) and www.nersa.org.za (path: Petroleum Pipelines > Licences > Applications under consideration)

Objections to the issuing of the licence applied for must be lodged within 30 calendar days from (insert date of the publication of the notice). Objections must be submitted in the prescribed form (Annexure D to the Petroleum Pipelines Rules, 2014) and must be substantiated by way of an affidavit or solemn declaration. This form is available at www.nersa.org.za (path: Petroleum Pipelines > Legislation > Petroleum Pipelines Rules) and at the NERSA offices at the abovementioned address. Objections must be addressed to the National Energy Regulator: Executive Manager: Petroleum Pipelines Regulation and must be:

(a) hand-delivered to the NERSA offices at the address mentioned above; or
(b) sent by registered post to PO Box 40343, Arcadia 007; or
(c) emailed to pipelines@nersa.org.za; or
(d) faxed to 012 401 4700.

All objections must be submitted by 17:00 on (insert date of the period of objections). Objections received after the closing date will be disregarded.
Annexure D: Application for a Licence
FORM B

Application for a licence in terms of the Petroleum Pipelines Act, 2003
(Act No. 60 of 2003)
CHAPTER 1
GENERAL INFORMATION

You are required to provide the following information:

Section A: Particulars of applicant

1. Full name, where the applicant is a natural person, or full registered name of the applicant;
2. Trading name of the applicant (if different from the registered name);
3. Physical and postal addresses of the principal place of business of the applicant;
4. Physical and postal address of the registered office of the applicant (if different from principal place of business);
5. Telephone number of the applicant;
6. Fax number of the applicant;
7. Email address of the applicant; and
8. Details of the mandated representative at the applicant, including:
   (a) designation,
   (b) family name,
   (c) first name,
   (d) telephone number,
   (e) fax number, and
   (f) email address.

Section B: Desired commencement date

Desired commencement date of the licence applied for.

Section C: Additional information

Provide any other information relevant to this application.

Section D: Licence conditions

State your desired licence conditions in terms of section 20(1) of the Act.
SECTION E: SOLEMN DECLARATION BY APPLICANT OR MANDATED REPRESENTATIVE

I (full names) ........................................................................................................................................
Identity Number........................................ hereby declare that:
(a) I am authorised by .......................................................... to make this declaration (attach the authorisation); and
(b) all information provided herein is within my personal knowledge and is both true and correct.

Signed at ........................................ (place) on this.......................day of
........................................ (month) .......................................... (year).

........................................................
Signature

I certify that the deponent:
(a) has acknowledged that she/he knows and understands the contents of this application form and its annexures, that she/he has no objection to taking the prescribed oath and that she/he considers the oath binding on her/his conscience; and
(b) has in the prescribed manner sworn that the contents of this application form and its annexures are true and signed same before me at
.......................................................... (place) on this
.......................................................... day of ........................................ (month)
.......................................................... (year).

________________________________
COMMISSIONER OF OATHS
Name
Address
Capacity
CHAPTER 2

DOCUMENTS OR INFORMATION TO BE SUBMITTED WITH A LICENCE APPLICATION

1. If the applicant is a natural person and a South African citizen, a certified copy of the applicant’s identity document.

2. In the case of a non-South African citizen, a certified copy of her/his:
   (a) passport;
   (b) permanent residence permit or employment permit; and
   (c) proof of residence in South Africa, or proof of domicile in South Africa.

3. If the applicant is:
   (a) a national, provincial or local government;
   (b) another statutory body;
   (c) a juristic person established in terms of an Act of Parliament; or
   (d) a company or other legal body established by statute or government directive, state the proclamation or legislation establishing such a body.

4. If the applicant is not a natural person, and is not contemplated in 3 above, provide:
   (a) the title of legislation under which it is registered;
   (b) the registration number given to it in terms of such legislation;
   (c) other details relating to the entity; and
   (d) any other information the Energy Regulator may require.

5. Where the applicant is a company, provide:
   (a) certified copy of the certificate of incorporation;
   (b) the names of current directors; and
   (c) details regarding the ownership or shareholding structure, including particulars of the shareholders.

6. Where the applicant is a Trust as defined in the Trust Property Act, 1988 (Act No. 57 of 1988), provide:
   (a) a certified copy of the trust deed or trust instrument and in the event of same having been amended, copies of the amended page(s) duly certified;
   (b) Letters of Administration duly certified, issued to the trustees, and if this document has been amended, then a copy of the current Letters of Administration duly certified;
   (c) certified copies of the identity documents of the trustees and beneficiaries and proof of each one's residential address;
(d) proof of the address at which the Trust is conducting its business such as an account of the local authority for rates, taxes, electricity or water which should reflect the physical address of the Trust; and
(e) a resolution of the trustees authorising any one or more of them to apply for the licence that reflects the names of the trustees that attended this meeting and each one’s vote for or against the resolution.

7. Where the applicant has authorised another person to submit the licence on its behalf, documentary proof of authorisation and a certified copy of the identity document of the mandated/authorised representative of the applicant.

8. Proof that the applicant is the owner of the petroleum pipeline, storage facility or loading facility.

9. Where the owner of the petroleum facility is not the owner of the land on which the facility is situated, proof that the applicant is the owner of the petroleum facility and proof of authorisation to use the land.

10. Where the facility is owned by more than one person, the applicant must provide –
   (a) details of the co-ownership and documentary proof thereof or a solemn declaration to that effect; and
   (b) a written mandate from each of the other owners authorising the applicant to apply for the licence on their behalf.

11. Documents demonstrating the administrative abilities of the applicant. 15

12. Documents demonstrating the financial abilities of the applicant. 16

13. Documents demonstrating the technical abilities of the applicant. 17

14. A certified copy of the Record of Decision of the relevant environmental authorities in accordance with the National Environmental Management Act, 1998 (Act No. 107 of 1998) permitting the activity for which the licence is sought, if applicable. If the Record of Decision has not been obtained, then:
   (a) submit:
      (i) proof of application for such permit, or
      (ii) a solemn declaration outlining the applicant’s plans and ability to comply with all applicable labour, health and environmental legislation; or

15 Only original or certified copies will be accepted by the Energy Regulator.
16 Only original or certified copies will be accepted by the Energy Regulator.
17 Only original or certified copies will be accepted by the Energy Regulator.
(b) state the reason why the permit is not applicable.

15. List all applicable:
   (a) legislation;
   (b) operating and technical standards; and
   (c) codes and specifications (including those relating to safety) to be used in the activities for which this application is made, for example:
      (i) South African National Standards (SANS),
      (ii) the American Society of Mechanical Engineers (ASME) Standards,
      (iii) American Petroleum Institute (API) Standards, and
      (iv) European Norms (EN).

16. Provide details of the petroleum that will be handled in the facility for which this application is made.

17. Provide information required by regulations made in terms of the Act concerning mechanisms to promote Historically Disadvantaged South Africans.
CHAPTER 3
DETAILS OF APPLICATION

Complete the appropriate form:

Petroleum Pipelines

- Construction of a petroleum pipeline (PPL.p.F1)
- Conversion of a petroleum pipeline (PPL.p.F2)
- Operation of a petroleum pipeline (PPL.p.F3)

Petroleum Storage Facilities

- Construction of a petroleum storage facility (PPL.sf.F1)
- Conversion of a petroleum storage facility (PPL.sf.F2)
- Operation of a petroleum storage facility (PPL.sf.F3)

Petroleum Loading Facilities

- Construction of a petroleum loading facility (PPL.lf.F1)
- Conversion of a petroleum loading facility (PPL.lf.F2)
- Operation of a petroleum loading facility (PPL.lf.F3)
CONSTRUCTION OF A PETROLEUM PIPELINE (PPL.p.F1)

Provide the following information/documents. Each numbered item below should be copied and must appear at the top of a page with your information below.

1. A technical description of the pipeline, adequately specifying:
   (a) the route(s);
   (b) diameter(s);
   (c) GPS coordinates (of the inlet and outlet flanges);
   (d) planned pumping stations;
   (e) receiving and launching stations;
   (f) installed design capacity;
   (g) initial capacity;
   (h) receipt and delivery points;
   (i) connections with other pipeline systems;
   (j) auxiliary equipment, like accumulation and inter mixture tanks; and
   (k) control and communication systems.

2. Detailed maps and diagrams, as appropriate.

3. In the case of greenfield projects for which a licence is sought, information on the economic, market and financial forecasts and other relevant information upon which the proposed project for the licence applied for is based.

4. Provide information required in terms of rules 12(7) and 12(8) of these Rules.

5. A copy of the intended operational procedures.

6. Status or expected status in terms of the National Key Points Act, 1980 (Act No.102 of 1980).

7. Details of existing and proposed security arrangements.

8. Development programme, including:
   (a) planned capacity of the project during the various stages of development;
   (b) schedule of implementation and minimum investment commitments for looping, receipt and delivery points, pumping stations and other development programmes; and
   (c) deadline to commence service for each stage contemplated.
CONVERSION OF A PETROLEUM PIPELINE (PPL.p.F2)

Provide the following information/documentation. Each numbered item below should be copied and appear at the top of a page with your information below.

1. Existing licence number and date of commencement of licence.
2. Application for the revocation of the licence in terms of section 24 of the Act and rule 13 of these rules.
3. If the pipeline is not licensed, provide a technical description of the pipeline adequately specifying:
   (a) the route(s);
   (b) diameter(s);
   (c) GPS coordinates (of the inlet and outlet flanges);
   (d) planned pumping stations;
   (e) receiving and launching stations;
   (f) installed design capacity;
   (g) initial capacity;
   (h) receipt and delivery points;
   (i) connections with other pipeline systems;
   (j) auxiliary equipment like accumulation and inter mixture tanks; and
   (k) control and communication systems.
4. Detailed maps and diagrams, as appropriate.
5. A full description of the intended conversion and the reasons therefor.
6. The impact of the conversion on users of the pipeline and any measures taken to ensure continued provision of services.
OPERATION OF A PETROLEUM PIPELINE (PPL.p.F3)

Provide the following information. Each numbered item below should be copied and appear at the top of a page with your information below.

1. A technical description of the pipeline adequately specifying:
   (a) the route(s);
   (b) GPS coordinates (of the inlet and outlet flanges);
   (c) diameter(s);
   (d) planned pumping stations;
   (e) receiving and launching stations;
   (f) installed design capacity;
   (g) initial capacity;
   (h) receipt and delivery points;
   (i) connections with other pipeline systems;
   (j) auxiliary equipment like accumulation and inter mixture tanks; and
   (k) control and communication system.

2. Detailed maps and diagrams as appropriate.

3. A description of the mechanical properties and condition of the pipeline.

4. The results of any programmes, surveys or studies that indicate the present condition of the pipeline.

5. Information required in terms of rules 12(7) and 12(8) of these Rules.

6. A copy of the emergency plan contemplated in section 20(1)(x) of the Act.

7. A copy of the operational procedures for the pipeline.

8. Status in terms of the National Key Points Act, 1980 (Act No.102 of 1980).

9. Details of existing and proposed security arrangements.

10. Development plans:
    (a) investment and development plan including nature, schedule and quantum of each investment; and
    (b) planned changes to pipeline capacity and the dates when changes will become operational.

11. A copy of the maintenance policy for the petroleum pipeline.
CONSTRUCTION OF A PETROLEUM STORAGE FACILITY (PPL.sf.F1)

Provide the following information/documentation. Each numbered item below should be copied and appear at the top of a page with your information below.

1. A technical description of the proposed storage facility to be constructed. This should include the following:
   (a) the physical address;
   (b) GPS Coordinates;
   (c) the layout of the proposed facility;
   (d) the diameter and height of the tanks;
   (e) tank type;
   (f) design capacity;
   (g) product to be stored in each tank;
   (h) the physical dimensions and capacity of the storage facility;
   (i) the rate at and the means (e.g. pipeline, rail gantry, road transport gantry) through which product can be taken in and out of the proposed storage facility and specify the number of gantries and their capacities; and
   (j) drawings showing:
      (i) the storage facility design and piping arrangements,
      (ii) the proposed location of the storage facility, fences and roads,
      (iii) where applicable, a description of the containment system and systems to prevent overflow or leakage,
      (iv) a description of the regular inspection and maintenance procedures, and
      (v) where applicable, a description for handling contaminated water run-off.

2. Election of third-party access to uncommitted capacity arrangements as contemplated in section 20(1)(n) of the Act.

3. In the case of greenfield projects for which a licence is sought, information on the economic, market and financial forecasts and other relevant information upon which the proposed project for the licence applied for is based.

5. Provide information required in terms of rules 12(7) and 12(8) of these Rules.

6. A copy of the emergency plan contemplated in section 20(1)(x) of the Act.

7. A copy of the intended storage facility operational procedures.

8. Status in terms of the National Key Points Act, 1980 (Act No. 102 of 1980).

9. Details of existing and proposed security arrangements.

10. Development programme including:
    (a) planned capacity of the project during the various stages of development;
    (b) schedule of implementation and minimum investment commitments for the development programme; and
    (c) deadline to commence service for each stage contemplated.
CONVERSION OF A PETROLEUM STORAGE FACILITY (PPL.sf.F2)

Provide the following information/documentation. Each numbered item below should be copied and appear at the top of a page with your information below.

1. Existing licence number and date of commencement of licence.
2. Application for revocation of the licence in terms of section 24 of the Act and rule 13 of these Rules.
3. If the facility is not licensed; provide a technical description of the proposed storage facility to be converted, specifying the changes to the description in the existing licence. This should include the following:
   (a) GPS coordinates;
   (b) physical plan of the facility;
   (c) the layout of the proposed conversion of the storage facility;
   (d) the diameter and height of the tanks;
   (e) tank type;
   (f) design capacity;
   (g) product stored in each tank;
   (h) changes to the physical dimensions and capacity of the storage facility;
   (i) changes to the existing rate at which product can be taken into the proposed storage facility (e.g. pipeline, rail gantry and road transport gantry) (specify the number of gantries and their capacities);
   (j) changes to the rate at which product can be taken out of the proposed storage facility and through what means (e.g. pipeline, rail gantry, road transport gantry) (specify the number of gantries and their capacities); and
   (k) maps showing:
      (i) changes to the existing storage facility design, piping arrangements and gantries,
      (ii) changes to the proposed location of the storage facility, fences and roads,
      (iii) where applicable, descriptions of changes to the containment system and systems to prevent overflow or leakage,
      (iv) a description of changes to the regular inspection and maintenance procedures, and
      (v) where applicable, a description of the changes for handling contaminated water run-off.
4. A full description of the intended conversion and the reasons therefor.
5. The impact of the conversion on users of the storage facility and measures taken to ensure continued provision of service.
OPERATION OF A PETROLEUM STORAGE FACILITY (PPL.sf.F3)

Provide the following information/documentation. Each numbered item below should be copied and appear at the top of a page with your information below.

1. A technical description of the proposed storage facility to be operated. This should include the following:
   (a) physical address of the facility;
   (b) GPS coordinates;
   (c) the layout of the storage facility to be operated;
   (d) the diameter and height of the tanks;
   (e) tank type;
   (f) tank identification number;
   (g) operational capacity
   (h) design capacity;
   (i) product to be stored in each tank;
   (j) the physical dimensions and capacity of the storage facility;
   (k) the rate at which product can be taken into the proposed storage facility and through what means (e.g. pipeline, rail gantry, road transport gantry) (specify the number of gantries and their capacities);
   (l) the rate at which product can be taken out of the proposed storage facility and through what means (e.g. pipeline, rail gantry, road transport gantry) (specify the number of gantries and their capacities); and
   (m) maps showing:
      (i) the storage facility design and piping arrangements,
      (ii) the proposed location of the storage facility, fences and roads,
      (iii) where applicable, a description of the containment system and the systems to prevent overflow or leakage,
      (iv) a description of the regular inspection and maintenance procedures, and
      (v) where applicable, a description for handling contaminated water run-off.

2. Election of third-party access to uncommitted capacity arrangements as contemplated in section 20(1)(n) of the Act.

3. Provide information required in terms of rules 12(7) and 12(8) of these Rules.

4. A copy of the emergency plan contemplated in section 20(1)(x) of the Act.

5. A copy of the storage facility operational procedures.


7. Details of existing and proposed security arrangements.

8. Development programme:
   (a) planned capacity of the project during the various stages of development;
   (b) schedule of implementation and minimum investment commitments for the development programme; and
   (c) deadline to commence service for each stage contemplated.

9. A copy of the maintenance policy for the storage facility.
CONSTRUCTION OF A PETROLEUM LOADING FACILITY (PPL.lf.F1)

Provide the following information/documentation. Each numbered item below should be copied and appear at the top of a page with your information below.

1. A technical description of the proposed loading facility to be constructed, including:
   (a) GPS coordinates;
   (b) the number of loading points;
   (c) type of each loading point (e.g. loading arms or flexible hose);
   (d) the proposed rate at which product is to be conveyed through the facility; and
   (e) details of the proposed auxiliary pipeline/s including:
      (i) diameters,
      (ii) lengths,
      (iii) the storage facility to be connected to, and
      (iv) receipts and delivery points

2. Maps and diagrams where appropriate.

3. Details of capacities at the various stages of development, planned and potential receipt and delivery points.

4. The rate at which petroleum can be conveyed through the loading facility and the time necessary for ships to be brought into position for loading, and the dimensions and capacities of any auxiliary pipelines connected thereto.

5. A copy of the agreement or authorisation from the National Ports Authority permitting the construction of the facility on its property, where appropriate.

6. In the case of greenfield projects for which a licence is sought, information on the economic, market and financial forecasts and other relevant information upon which the proposed project for the licence applied for is based.

7. Provide information required in terms of rules 12(7) and 12(8) of these Rules.

8. A copy of the proposed emergency plan contemplated in section 20(1)(x) of the Act.

9. A copy of the intended loading facility operational procedures.

10. Status in terms of the National Key Points Act, 1980 (Act No.102 of 1980).

11. Details of the development programme including:
   (a) planned capacity of the loading facility project during the various stages of development;
   (b) the schedule of implementation and minimum investment commitments for the development programme; and
   (c) the deadline to commence service for each stage contemplated.
CONVERSION OF A PETROLEUM LOADING FACILITY (PPL.lf.F2)

Provide the following information. Each numbered item below should be copied and appear at the top of a page with your information below.

1. Existing licence number and date of commencement of licence.
2. Application for revocation of the licence in terms of section 24 of the Act and rule 13 of these rules.
3. If the facility is not licensed, a technical description of the loading facility to be converted, including:
   (a) GPS coordinates;
   (b) the number of loading points;
   (c) type of each loading point (e.g. loading arms or flexible hose);
   (d) the proposed rate at which product is to be conveyed through the facility; and
   (e) details of the auxiliary pipeline/s including:
      (i) diameters,
      (ii) lengths,
      (iii) storage facility connected to the pipeline, and
      (iv) receipts and delivery points.
4. Maps and diagrams where appropriate.
5. Details of capacities at the various stages of development, planned and potential receipt and delivery points.
6. The rate at which petroleum can be conveyed through the loading facility and the time necessary for ships to be brought into position for loading, and the dimensions and capacities of any auxiliary pipelines connected thereto. Please submit a copy of the agreement or authorisation from the National Ports Authority.
7. A full description of the intended conversion and the reasons therefor.
8. The impact of the conversion on users of the loading facility and measures taken to ensure continued provision of service.
OPERATION OF A PETROLEUM LOADING FACILITY (PPL.lf.F3)

Provide the following information/documentation. Each numbered item below should be copied and appear at the top of a page with your information below.

1. A technical description of the proposed loading facility to be constructed, including:
   (a) GPS coordinates;
   (b) the number of loading points;
   (c) type of each loading point (e.g. loading arms or flexible hose);
   (d) the proposed rate at which product is to be conveyed through the facility; and
   (e) details of the proposed pipeline to be connected to the storage facility including:
      (i) diameters,
      (ii) lengths,
      (iii) route maps, and
      (iv) receipts and delivery points.

2. Maps and diagrams where appropriate. The maps should give details of capacities at the various stages of development, planned and potential receipt and delivery points. These should also include the rate at which petroleum can be conveyed through the loading facility and the time necessary for ships to be brought into position for loading, and the dimensions and capacities of any auxiliary pipelines connected thereto.

3. A copy of the agreement or authorisation from the National Ports Authority permitting the operation of the facility on its property, where appropriate.

4. Provide information required in terms of rules 12(7) and 12(8) of these Rules.

5. A copy of the loading facility operational procedure.


7. Details of security arrangements.

8. Details of the development programme including:
   (a) planned capacity of the project during the various stages of development;
   (b) the schedule of implementation and minimum investment commitments for the development programme; and
   (c) the deadline to commence service for each stage contemplated.

9. A copy of the maintenance policy for the loading facility.