



**Allocation Mechanism Guidelines for
Third Party Access to Petroleum Storage Facilities**

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Allocation Mechanism Guidelines

These guidelines are developed by the National Energy Regulator (NERSA) to assist petroleum storage licensees to develop their storage capacity allocation mechanisms as required by the Regulations published under GNR342 Government Gazette No. 30905 of 4 April 2008 in terms of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003).

These guidelines are a statement of NERSA's commitment to facilitate third party access to licensed storage facilities in South Africa and are intended to assist the storage licensees in complying with the regulations regarding allocation mechanism.

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1. Introduction

- 1.1. In terms of the Regulations published under GNR342 Government Gazette No. 30905 of 4 April 2008 in terms of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003), storage licensees must lodge with the Energy Regulator their allocation mechanisms for uncommitted capacity within six months of receipt of a licence. Note that this is not a methodology to determine “uncommitted capacity”
- 1.2. The allocation mechanism must comply with sub-regulation 3(8) of the Regulations, and it must include:
- (a) a tariff schedule;
 - (b) contractual terms and conditions regarding use and payment;
 - (c) technical requirements for access to the storage facility; and
 - (d) the process to be followed by a third party when requesting access.
- 1.3. According to sub-regulations 3 (9) of the Regulations, an allocation mechanism must:
- a) be commercially reasonable;
 - b) be operationally reasonable;
 - c) apply ‘ first come, first serve’ principle;
 - d) apply ‘use-it-or-lose-it’ principle;
 - e) not discriminate on any grounds as contemplated in section 21 of the Petroleum Pipeline Act, 2003; and
 - f) be technically feasible.
- 1.4. These guidelines outline and propose a set of standards for storage licensees when developing allocation mechanisms for their facilities.
- 1.5. The guidelines supplement sub-regulations 3(5), 3(6), 3(7), 3(8), 3(9) and 3.(10) of the Regulations which deals with third party access to uncommitted capacity.

2. Tariff schedule

2.1. The licensee should within the allocation mechanism:

- a) include the NERSA approved tariff for the petroleum to be stored or the licensee's tariff until it is replaced by a NERSA approved tariff; and
- b) indicate whether tariffs charged are inclusive or exclusive of Value Added Tax (VAT).

3. Contractual terms and conditions for use

3.1. The allocation mechanism should have conditions of use, which may include:

- i) storage capacity scheduling and planning;
- ii) volume to be stored;
- iii) petroleum type and quality;
- iv) custody of petroleum; and
- v) amendments to documentation.

i) Storage capacity scheduling and planning

3.2. The licensee may indicate in the allocation mechanism a planning and scheduling process that is in place for the storage facility concerned. This planning and scheduling process should cover the following:

- a) indicative order planning for example the number of months or weeks advance notice for planning purposes;
- b) firm order planning for example the number of days or hours notice before confirmation of order;
- c) petroleum dispatch schedule from storage facility i.e. creating room for expected petroleum; and
- d) operational issues related to scheduling and planning for example preparations at facility before petroleum delivery or collection.

3.3. The licensee should state in conjunction with the firm order plan the following:

- a) required time and date of arrival of the petroleum;

- b) mode in which the petroleum can be received for example by ship, road, rail or pipeline;
- c) mode in which the petroleum can be dispatched for example by ship, road, rail or pipeline;
- d) remedial actions to be taken if the petroleum should arrive earlier or later than expected;
- e) quantum in which the petroleum can be delivered or dispatched;
- f) documentation requirements (paper or electronic); and
- g) any other requirements for scheduling and planning purposes.

3.4. The storage licensee may include within the allocation mechanism the duration that the petroleum can be stored at the storage facility and the penalties for non compliance with that time period if any.

3.5. Remedial actions must be clearly outlined for deviations that can cause delays in anticipated petroleum receipt or dispatch from the storage facility.

ii) Volume to be stored

3.6. The licensee should put the volumetric capacity in cubic meters (m³) or in litres that can be accessed by a third party taking into consideration the operational requirements of the storage facility.

3.7. The licensee should indicate the process of metering the petroleum into the storage facility including the following:

- a) types of meters used;
- b) certificate of calibration showing last calibration date and time;
- c) meter printed receipt that will be deemed as binding for the purposes of quantity control.

3.8. The licensee must explain in the allocation mechanism a third party's liability with respect to:

- a) unpumpables or dead stock, which is petroleum that is at the bottom of a storage tank and is incapable of being pumped out of such tank; or
- b) any losses in depot operation.

3.9. The temperature and density, at which the petroleum will be measured and reported, must also be specified in accordance with the South African National Standards (SANS) for the purposes of correct measurements of volume and calculation of tariffs.

3.10. The allocation mechanism must make it clear how differences in volumes arising from differences in temperature and density will be dealt with.

iii) Petroleum type and quality control

3.11. To avoid the contamination of a petroleum to a degree greater than is permissible, it is advisable that the licensee indicates in the allocation mechanism the standards to which the third party's petroleum must adhere. These standards may include the following:

- a) South African National Standards (SANS);
- b) Oil Industry Petroleum Exchange standards (OIPES); and
- c) other standards operationally reasonable for the storage facility concerned.

3.12. The allocation mechanism should state the licensee's preferred petroleum sampling methods, analysis and preferred testing service provider i.e. either licensee internal laboratory or external South African National Accreditation System (SANAS) approved laboratories and the period for which samples will be retained.

3.13. An allocation mechanism should specify how slops will be managed, accounted for and billed.

iv) Custody of petroleum

3.14. The licensee should state the points at which the petroleum to be stored will be deemed to have passed into and out of the custody of the storage licensee and the accompanying risk.

3.15. A licensee should state the procedure for the verification of authenticity of the orders and transporters.

3.16. The licensee should state clearly the remedial actions it will take if there is loss of or a deterioration in petroleum quality during the storage licensee's period of custody including those attributed to the following:

- a) incorrect operation of equipment; or
- b) leakage, faulty equipment or faulty maintenance of any equipment that is owned by the storage licensee at the time of loss or deterioration; or
- c) theft or fire.

v) Amendments to documentation

3.17. The word "amendments" in the context of these guidelines means changes to documentation of a planned delivery or changes to documentation after a delivery to a storage facility.

3.18. The allocation mechanism should specify the period before receipt or dispatch during which no amendments may be made.

3.19. The impact of amendments on the tariffs and charges must be spelt out in the allocation mechanism.

4. Contractual Terms and conditions for payment

4.1. The allocation mechanism should specify the following regarding payment:

- a) format of invoice;
- b) when will the invoice be issued;
- c) date of payment;
- d) method of payment; and
- e) whether the licensee requires upfront payment, deposit or other terms of payment.

4.2. Responsibility for insurance cover, liability, and other costs should be clearly specified in the allocation mechanism.

4.3. A licensee may require proof that a third party seeking to utilize its storage facility is registered as a Wholesaler of Petroleum Products as required by the Petroleum Products Act, 1977 (Act No.120 of 1977) as amended or possess a valid licence issued by Department of Energy (DoE).

4.4. If a licensee has a standard contract template, it may attach that to its allocation mechanism.

5. Technical requirements for access to the storage facility

5.1. The allocation mechanism should specify any technical requirements.

“Technical requirements” in the context of these guidelines means requirements relating to the following:

- a) vehicle delivering or collecting product to or from the storage facility;
- b) vehicle driver; and
- c) applicable procedures and legislation for safety.

5.2. Technical requirements must be clearly stated in the allocation mechanism.

5.3. An allocation mechanism must state any training requirements expected of the vehicle driver or other representatives of a third party.

5.4. Any mandatory agreements to be signed at the entrance to a storage facility must be clearly stated in the allocation mechanism. Such agreements include indemnities.

6. Process to be followed by third parties when requesting access

6.1. An allocation mechanism must state the process to be followed by a third party when requesting access. This process should include the following:

- a) format of application i.e. written letter or application forms;
- b) information to be included in the application i.e. information concerning petroleum to be stored;
- c) documents required for licensee's records;
- d) documents required for vetting and screening purposes;
- e) the address to which applications should be directed;
- f) method of correspondence i.e. email, fax, telephone etc; and
- g) the period within which an application will be answered.

7. Conclusion

7.1. These guidelines are not mandatory. However, it is hoped that they will assist storage facilities licensees in complying with regulatory requirements regarding allocation mechanisms.