

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT No.46 OF 2002

The Energy Regulations Act
(Laws, Volume 24, Cap. 436)

The Energy Regulation (Marking and Transportation of
Petroleum) Regulations, 2002

IN EXERCISE of the powers contained in section *twenty-seven* of the Energy Regulation Act the following Regulations are hereby made:

PART I

PRELIMINARY

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| 1. These Regulations may be cited as the Energy Regulation (Marking and Transportation of Petroleum) Regulations, 2002. | Title |
| 2. In these Regulations unless the context otherwise requires— | Interpretation |
| “ authorised officer ” means a member of the staff of the marking company designated as authorised officer for the purposes of these Regulations; | |
| “ Board ” means the Energy Regulation Board established under section <i>three</i> of the Act; | |
| “ company ” means an oil marketing company licensed by the Board to distribute and market petroleum in Zambia and includes the operator of the Ndola fuel terminal; | |
| “ dealer ” means an undertaking licensed by the Board to sell petroleum products; | |
| “ inspector ” means a person appointed as an inspector under section <i>four</i> of the Act; | |
| “ marker ” means the chemical approved by the Board for marking petroleum; | |
| “ marking company ” means the company contracted by the Board to mark petroleum; | |
| “ petroleum ” means motor spirit (petrol), gas oil (diesel), kerosene, fuel oils, propane, butane, petroleum bitumen, bituminous mixtures based on natural asphalt, on natural bitumen, and includes mineral tar pitch such as bitumen mastics and cutbacks; | |
| “ petroleum for domestic use ” means diesel, petrol and kerosene for consumption in Zambia; and | |
| “ terminal ” means any site, listed in the Second Schedule, for marking petroleum; | |

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P.O. Box 30136, 10100 Lusaka. Price K1000 each

PART II

MARKING OF PETROLEUM

Appointment of a marking company 3. The Board shall, for purposes of these Regulations, appoint a company to mark petroleum, in these Regulations referred to as a marking company.

Marking of Petroleum 4. (1) All petroleum for domestic use or for export from Zambia shall be marked in accordance with the First Schedule.

(2) The marking company shall mark the petroleum referred to in subregulation (1)—

- (a) with the marker specified in the First Schedule; and
- (b) at any terminal listed in the Second Schedule.

(3) A company shall ensure that any petroleum leaving its terminals is marked in accordance with this regulation and shall, prior to distributing such petroleum, notify the marking company of the movements of such petroleum.

(4) A company shall pay the prescribed fee to the marking company for all petroleum marked on behalf of that company.

Entry and inspection of premises 5. An inspector or any person authorised in writing by the Board may, at all reasonable times enter the premises of any undertaking for the purposes of ascertaining whether the provisions of these Regulations are being complied with.

Powers of inspector 6. (1) An authorised officer or an inspector may take a sample of petroleum from any retail service station, non-retail consumer or road tanker in order to determine the level of markers in such petroleum sample.

(2) The samples required under subsection (1) shall be supplied to the authorised officer or inspector free of charge.

(3) The results of any test or examination done under these Regulations shall be made available to the Board, the concerned company and the concerned party from whom the sample is taken.

PART III

PENALTIES AND OFFENCES

Unauthorised dilution of Petroleum 7. An operator of an undertaking or any person from whom a sample of petroleum is taken under regulation 6 commits an offence, if the results of an examination of that sample reveals—

- (a) that the marker in the petroleum has been diluted by a margin of ten per centum or more; or
- (b) that an unauthorised product has been added to the petroleum;

and shall be liable upon conviction, to a fine not exceeding seventy-five thousand penalty units.

8. (1) No operator of an undertaking or any other person shall sell petroleum which is not marked.

Prohibition
of selling
unmarked
petroleum

(2) Any operator of an undertaking or person who contravenes subregulation (1) commits an offence and shall be liable on conviction to a fine not exceeding seventy-five thousand penalty units.

(3) Where an operator of an undertaking or any person is convicted of an offence under this regulation the Board may, in addition to the penalty under subregulation (2)—

- (a) suspend the licence of a company or dealer referred to in paragraphs (b) or (c) until the company or dealer remedies the situation to the satisfaction of the Board;
- (b) suspend the operations of a service station where the service station is owned by a dealer until the dealer remedies the situation to the satisfaction of the Board; or
- (c) if the service station is owned by a company, suspend the operations of the service station until investigations are concluded by the Board.

9. Any person who, without legal authority, is found in possession of the marker commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand penalty units.

Unauthor-
ised
possession of
marker

10. Any person who—

- (a) transports petroleum in a road tanker vehicle which does not satisfy the packaging requirements of the Zambian Standard ZS 371 set by the Zambia Bureau of Standards under the Standards Act, for the transportation of petroleum based flammable liquids;
- (b) transports petroleum in a road tank vehicle which is not licenced by the Board;
- (c) loads petroleum on a road tank vehicle without a valid assize or a Zambia Bureau of Standards certificate;
- (d) tampers with the ullage mark or incorrectly seals a manhole cover;
- (e) loads petroleum in a road tank vehicle at an unregistered work place;
- (f) without lawful authority, permits the unloading of petroleum from a road tank vehicle or any other vehicle en-route to its final destination or by the roadside; or
- (g) off loads petroleum from a road tank vehicle without the supervision of a qualified person selected by the consignee or the consignee's representative.

Transporta-
tion of
petroleum

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commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand penalty units.

Interference
with marked
petroleum

11. Any person who, without legal right diverts, or causes to be diverted, to another use, any petroleum which is intended for a specific use, or uses any such petroleum, knowing the same to have been wrongfully or unlawfully diverted, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand units.

Unauthor-
ised sale of
petroleum

12. Any person who sales petrol, diesel or kerosene or a mixture of the three substances at a roadside or any other unauthorised outlet such as dwelling place, warehouse or shelter in the bush commits an offence and shall be liable upon conviction to a fine not exceeding seventy-five thousand penalty units.

FIRST SCHEDULE

(Regulation 4)

MARKING OF PETROLEUM

<i>Fuel</i>	<i>Domestic</i>	<i>Road Rebate</i>	<i>Mines Rebate</i>	<i>Export</i>	<i>Diplomatic Missions</i>
Petrol	A	B	C	C	B
Diesel	A	B	C	C	B
Kerosene	C	—	—	C	B

A, B and C indicate different types of marker that are uniquely identifiable.

SECOND SCHEDULE

(Regulation 4)

MARKING TERMINALS

Marking will be carried out at the following terminals in Zambia:

- (a) the Ndola Fuel Terminal;
- (b) the Indeni Petroleum Refinery Company Limited Tankage in Ndola;
- (c) the depots owned by the Government of the Republic of Zambia in Lusaka, Choma, Kasama, Solwezi, Chipata, Mansa and Mongu.
- (d) the depots owned by BP Zambia Plc, Caltex Oil Zambia Limited, Mobile Oil Zambia Limited, Ody's Oil Company Limited, Total Zambia Limited, TotalFinalElf Zambia Limited, Agro-Fuel Investments, Jovenna Zambia Limited, KAFCO wholesalers and Engen Petroleum Zambia Limited throughout the Republic of Zambia.

LUSAKA
4th July, 2002

K. LEMBALEMBWA,
Minister of Energy and
Water Development