No. R. 36 13 January 2006

DRAFT FOR PUBLIC COMMENT

PETROLEUM PRODUCTS ACT, 1977

NOTICE OF INTENTION TO MAKE REGULATIONS REGARDING PETROLEUM PRODUCTS SITE AND RETAIL LICENCES

The Minister of Minerals and Energy intends, under sections 2B, 2D, 2E and 12C of the Petroleum Products Act, 1977 (Act No. 120 of 1977), as amended by the Petroleum Products Amendment Act, 2003 (Act No. 58 of 2003), and Petroleum Products Amendment Act, 2005 (Act No. 2 of 2005), to make the regulations in the Schedule, which are hereby published for public comment under section 2E(2) of the said Act.

Comments should be submitted not later than 12h00 on 30th January 2006 to Mr. Muzi W. Mkhize at fax no. (012) 322 8570 or e-mail address muzi.mkhize@dme.gov.za.

Enquiries can be made at telephone number (012) 317 8646.

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Definitions

1 In this Regulation any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and unless the context otherwise indicates -

"Act" means the Petroleum Products Act, 1977 (Act No. 120 of 1977), as amended;

"Amendment Act" means the Petroleum Products Amendment Act, 2003 (Act No. 58 of 2003) and Petroleum Products Amendment Act, 2005 (Act No. 2 of 2005);

"certified copy" means a photocopy of an original document that has been-

(a) attested as a true copy of the original and is marked with the words "original seen" or "true copy of original document"; and

(b) signed and stamped by a -

(i) Commissioner of Oaths as contemplated in the Justices of the Peace and Commissioners Oath Act, 1963 (Act No. 16 of 1963); or

(ii) a competent authority, in the case of the Title Deeds, Environmental Impact Assessment Record of Decisions, Zoning certificates;

"Controller" means the Controller of Petroleum Products contemplated in Section 3(1) of the Act;

"declaration" means an affidavit, affirmation or solemn or attested declaration made before and signed in front of a commissioner of oaths as contemplated in the Justices of the Peace and Commissioners Oath Act, 1963 (Act No. 16 of 1963);

"**permit-holder**" means any person who has a written permission to develop a site in a publicly owned land contemplated in section 2A(4)(b) of the Act;

"prescribed petroleum products" means, in this Regulation, liquefied petroleum gas used for the propulsion of vehicles, petrol and diesel;

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"site licence" means a licence issued to a person who holds or has permission from the owner of the land to develop a site for the purpose of retailing prescribed petroleum products;

"temporary licence" means a licence issued to any person for a specified time period, not exceeding six months, as contemplated in section 2B (5) of the Act in respect of a retailing operation that has been previously licensed,;

"training" means learnerships as contemplated in Section 16 of the Skills Development Act 1998 (No. 97 of 1998) and **"trained"** must be interpreted accordingly.

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Scope of Regulation

2 This Regulation applies to site and retail licences.

CHAPTER 1
SITE LICENCES

Lodging of site licence application

3 Any person who has to apply for a site licence, must –

(1) complete the application form contained in Annexure A; and

(2) lodge the application with the Controller together with the documents specified-

(a) in the case of an applicant that does not qualify in terms of Section 2D of the Act, in regulation 29; or

(b) in the case of an applicant that qualifies in terms of Section 2D of the Act, regulation 30.

4 The application contemplated in regulation 3 must be lodged together with an application for a corresponding retail licence.

5 A person contemplated in regulation 3 that does not qualify in terms of Section 2D of the Act must not commence with construction on a site until the Controller has issued a site licence.

6 When an application for a licence as contemplated in regulation 3 is lodged, an applicant that does not qualify in terms of Section 2D of the Act, must have published a notice of the application, in a prominent manner, in at least two of the most popular newspapers circulating in the area of the proposed activity in two official languages, one of which must be English.

7 The notice must state-

(1) the name of the applicant;

(2) the purpose of the application;

(3) the place where the application will be available for inspection by any member of the public;

(4) the period within which any objections to the issuing of the licence may be lodged with the Controller; and

(5) the address of the Controller where any objections may be lodged.

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8 The period contemplated in subregulation 7(4) must be 14 days from the date of publication of the notice.

Acceptance of site licence application

9 Before accepting a site licence application, the Controller must be satisfied that–

(1) a corresponding valid retail licence application has been lodged for that site;

(2) the applicant-

(a) is the owner of the site;

(b) in the case of publicly owned land, has written permission of the owner; or

(c) in the case of an applicant who qualifies in terms of section 2D of the Amendment Act, holds the site;

(3) the application form has been completed in full;

(4) the notice contemplated in regulation 6 was published; and

(5) all the documents specified in subregulation 3(2) have been submitted with the application form.

Evaluation of a site licence application

10 In evaluating an application for any site licence, the Controller must verify that the information and the documents submitted with the application form are true and correct.

11 In evaluating an application for a site licence made by any person who does not qualify in terms of Section 2D of the Act, the Controller must be satisfied that-

(1) there is a proven need for a site;

(2) the location of the site promotes growth and developmental objectives; and

(3) the site will-

(a) contribute to security of supply of petroleum products;

(b) promote competition;

(c) promote efficient use or development of logistical infrastructure;

(d) promote transformation in the liquid fuels industry; and

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(e) increase the participation of HDSA in the liquid fuels industry.

Procedure for issuing a site licence

12 The Controller must, if satisfied that an application for a site licence meets the requirements of the Act and this Regulation–

(1) inform the applicant that the application is successful;

(2) require the applicant to, within the period stipulated by the Controller -

(a) pay the application fee into a Bank account as stipulated in Annexure B; and

(b) submit documents specified in regulation 31; and

(3) then issue the site licence upon receipt of the documentation contemplated in subregulation (2)(b).

13 A site licence must include–

(1) the name of the licensee;

(2) the licence number;

(3) the identity number or company registration number of the licensee;

(4) the location of the site as represented by the Erf, stand or Lot number;

(5) each type of petroleum product the licensee is licensed to retail; and

(6) the date of issue of the licence.

Site rehabilitation

14 An environmental management plan, approved by competent authorities, contemplated in subregulation 31(2)(a) must contain-

(1) a description of the environment likely to be affected by the proposed site;

(2) an assessment of the potential impacts of the proposed retailing activity on the environment, socio-economic conditions and cultural heritage, if any;

(3) a summary of the assessment of the significance of the potential impacts, the proposed mitigation and management measures to minimise adverse impacts;

(4) financial provision which must include-

(a) the determination of the quantum of the financial provision contemplated in regulation 17; and

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(b) details of the method providing for the financial provision contemplated in regulation 15;

(5) planned monitoring and performance assessment of the environmental management plan;

(6) closure and environmental objectives;

(7) a record of public participation undertaken and the results thereof; and

(8) an undertaking by the applicant regarding the execution of the environmental management plan.

15 Financial provision required in terms of subregulation 31(2)(b) to achieve the total quantum for the rehabilitation, management and remediation of negative environmental impacts must be provided for by one or more of the following methods-

(1) an approved contribution to a trust fund as required in terms of section 10(1)(cH) of the Income Tax Act, 1962 (Act No. 58 of 1962) and must be in the format as approved by the Controller from time to time;

(2) a financial guarantee from a South African registered bank or any other or financial institution approved by the Controller guaranteeing the financial provision relating to the environmental management plan in the format as approved by the Controller from time to time;

(3) a deposit into the account specified by the Controller in the format as approved by the Controller from time to time; or

(4) any other method as the Controller may determine.

16 In the case of subregulation (3), proof of payment must be submitted to the Controller as contemplated in subregulation 31(2)(b) prior to the acceptance of the environmental management plan.

17 The quantum of the financial provision must be determined in consultation with a competent person and must include a detailed provision for costs that could be incurred in the event of-

(1) premature closure regarding-

(a) the rehabilitation of the land;

(b) the prevention and management of pollution of the atmosphere;

(c) the prevention and management of pollution of water and the soil; and

(d) the prevention of spillage and leakage into the ground of chemical substances introduced onto the site;

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(2) decommissioning and final closure of the operation; and

(3) post closure management of residual and latent environmental impacts.

18 The holder of a site licence must annually update and review the quantum of the financial provision-

(1) in consultation with a competent person;

(2) as required in terms of the approved environmental management plan; or

(3) as requested by the Controller.

19 Any inadequacies with regard to the financial provision must be rectified by the licencee-

(1) in an amendment of the environmental management plan, as the case may be; or

(2) as determined by the Controller.

Conditions of a site licence

20 A site licence, or a certified copy thereof, must be prominently displayed at the place of business, where any person entering the site may read it.

21 A licensee must inform the Controller, in writing, of any change of address or telephone number within 30 days of the relevant change taking effect.

22 A corresponding retail licence, or a certified copy thereof, must be prominently displayed at the place of business, where any person entering the site may read it.

23 A licensee must at all times comply with the Act, this Regulation and all other national, provincial and local government laws applicable to the operation of the activity concerned, including laws relating to labour, safety, hazardous substances, security, health and environment.

Transfer of a site licence

24 In the case of a licence issued to a person who does not qualify in terms of Section 2D of the Act, a site licence must be transferred when the land or in the case of publicly-owned land, a written permission, in respect of which the site licence has been issued changes ownership, provided that–

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(1) the new owner of that land or, the new permit-holder, applies in writing to the Controller to have that licence transferred within six months of taking ownership of the site;

(2) the applicant-

(a) pays the site transfer fee into a Bank account as stipulated in Annexure B;

(b) submit proof of payment of the transfer fee to the Controller; and

(c) provide proof of financial provision, for the purposes of rehabilitating a site upon the cessation of retailing activities, contemplated in subregulation 31(2); and

(3) the applicant provides a certified copy of the title deed or a certified copy of the deed of transfer, to the Controller.

25 In the case of a licence issued to a person who qualifies in terms of Section 2D of the Act, the site licence issued to a-

(1) land owner, must be transferred to a new owner of that land; or

(2) lessee, must be transferred to a new lessee or to an owner of that land.

26 The transfer contemplated in regulation 25 must be subject to–

(1) the lodging of an application for the within six months of change of ownership or lease;

(2) the payments an administration fee, into a Bank account as stipulated in Annexure B; and

(3) the provision of a certified copy of the title deed or of the deed of transfer or of the lease agreement, to the Controller.

27 Any new owner or permit-holder or lessee of the land, in respect of which a site licence has been issued, who fails to apply for the transfer of a site licence, within six months of taking ownership of that site or of the lease, shall be in contravention of the Act and this Regulation.

28 The provisions of this Regulation apply *mutatis mutandis*.

Documents to be submitted in support of a site licence application

29 An applicant for a site licence that does not qualify in terms of Section 2D of the Act must submit-

(1) a certified copy of the applicant's identity document and, in the case of a non-South African citizen, a permanent residence permit or employment

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permit and proof of residence in South Africa, or proof of domicile in South Africa, as the case may be;

(2) a certified copy of the business entity's registration documents, if the applicant is a corporate entity or a trust;

(3) certified copies of –

(a) the land use zoning certificate issued by a competent authority, authorising retailing from the site;

(b) the Record of Decision of the environmental authorities in accordance with the Environmental Conservation Act,1989 (Act No. 73 of 1989), as amended or the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended, permitting retailing operations on the site;

(c) in the case of-

(i) an owner, the title deed to the land on which the site is located;

(ii) publicly-owned land, the written permission of the land owner;

(d) the permission by the National Roads Authority to develop the site, if the site allows or is intended to allow access by vehicles to a national road;

(4) a declaration by the applicant stating that the applicant is in compliance with the Act, this Regulation and all other national, provincial and local government laws applicable for the operation of the activity concerned, including laws relating to labour, safety, hazardous substances, security, health and environment;

(5) proof of the publication of the notice of application contemplated in regulation 6.

30 An applicant for a site licence that qualifies in terms of Section 2D of the Act must submit–

(1) a certified copy of the applicant's identity document and, in the case of a non-South African citizen, a permanent residence permit or employment permit and proof of residence in South Africa, or proof of domicile in South Africa, as the case may be;

(2) a certified copy of its registration documents, if the applicant is a corporate entity or a trust-

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(a) a certified copy of the Certificate of Incorporation (CM1) if the applicant is a company; or

(b) a certified copy of the Founding Statement (CK1) if the applicant is a close corporation;-

(3) certified copies of–

(a) in the case of-

(i) an owner, the title deed to the land on which the site is located;

(ii) publicly owned land, the written permission of the land owner; or

(b) a lease agreement or an offer to purchase the site or an offer to lease the site;

(4) a declaration by the applicant stating that the applicant is in compliance Act, this Regulation and all other national, provincial and local government laws applicable for the operation of the activity concerned, including laws relating to labour, safety, hazardous substances, security, health and environment; and

(5) if retailing operations were being conducted on the site at the commencement of the Amendment Act, a declaration by the applicant to that effect; and

(6) if the applicant is in the process of developing a site at the commencement of the Amendment Act, a statement signed by the appropriate building inspector or other competent authority stating-

(a) the date on which building plans for the site were approved by the appropriate authorities, and

(b) that construction in accordance therewith had begun at the commencement of the Amendment Act;

Documentation to be submitted to the Controller upon a successful application

31 When an application has been successful and upon request from the Controller, the applicant must -

(1) submit proof of payment of the application fee to the Controller; and

(2) in the case of an person that does not qualify in terms of Section 2D of the Act-

(a) submit an environmental management plan; and

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(b) provide proof of financial provision for the purposes of rehabilitating a site upon the cessation of retailing activities; and

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CHAPTER 2

RETAIL LICENCES

Lodging of retail licence application

32 Any person who has to apply for a retail licence, must–

(1) complete the application form contained in Annexure A; and

(2) lodge that application with the Controller together with the documents specified-

(a) in the case of an applicant that does not qualify in terms of Section 2D of the Act, in regulation 58; or

(b) in the case of an applicant that qualifies in terms of Section 2D of the Act, regulation 59.

33 An applicant that does not qualify in terms of section 2D of the Act, must provide-

(1) the result of the net present value calculation; and

(2) all data and assumptions used in the calculation of the net present value.

34 In the case of a retail business owned by a licensed wholesaler for training purposes, the licensed wholesaler must submit, with the application, a declaration stating that the licensed retailing activity will be used for training purposes.

35 The application contemplated in regulation 32 must be lodged together with an application for a corresponding site licence, provided that in the case of a licensed site, a valid site licence or a certified copy thereof, must accompany the application.

36 When an application for a licence as contemplated in regulation 32 is lodged, an applicant that does not qualify in terms of Section 2D of the Act, must have published a notice of the application, in a prominent manner, in at least two of the most popular newspapers circulating in the area of the proposed activity in two official languages, one of which must be English.

37 The notice must state-

(1) the name of the applicant;

(2) the object of the application;

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(3) the place where the application will be available for inspection by any member of the public;

(4) the period within which any objections to the issuing of the licence may be lodged with the Controller; and

(5) the address of the Controller where any objections may be lodged.

38 The period contemplated in subregulation 37(4) must be 14 days from the date of publication of the notice.

Acceptance of retail licence application

39 In accepting a retail licence application, the Controller must be satisfied that–

(1) a corresponding site licence application or valid site licence exists;

(2) the applicant is the owner of the business;

(3) the application form has been completed in full;

(4) the notice contemplated in regulation 36 was published; and

(5) all the documents contemplated in subregulation 32(2).

Evaluation of a retail licence application

40 In evaluating an application for any retail licence, the Controller must verify that information and the documents submitted with the application form are true and correct.

41 In evaluating an application for a retail licence made by any person who does not qualify in terms of Section 2D of the Act, the Controller must be satisfied that-

(1) The retailing business is economically viable;

(2) the retailing business will promote growth and developmental objectives;

(3) the retailing business will-

(a) contribute to security of supply of petroleum products;

(b) promote competition;

(c) promote efficient use or development of logistical infrastructure;

(d) promote transformation in the liquid fuels industry; and

(e) increase the participation of HDSA in the liquid fuels industry.

42 In determining economic viability contemplated in subregulation 41(1), the Controller must be satisfied that the net present value has been correctly calculated and is positive.

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Procedure for issuing a retail licence

43 The Controller must, if satisfied that an application for a retail licence meets the requirements of the Act and this Regulation–

(1) inform the applicant that the application is successful; and

(2) require the applicant to, within the period stipulated by the Controller-

(a) deposit the application fee into a Bank account as stipulated in Annexure B; and

(b) submit proof of payment of the application fee to the Controller; and

(3) upon receipt of the proof of payment, then issue the retail licence.

44 A licensed wholesaler may, for training purposes, be issued a number of retail licences that meets the provision that there is-

(1) one retail licence for the first 100 sites supplied with prescribed petroleum products by that wholesaler; and

(2) one retail licence for every additional 200 sites supplied with prescribed petroleum products by that wholesaler, but no more than nine retail licences.

45 A retail licence must include–

(1) the name of the licensee;

(2) the licence number;

(3) the identity number or company registration number of the licensee;

(4) the location of the retailing activity as represented by the Erf, stand or Lot number;

(5) each type of petroleum product the licensee is licensed to retail; and

(6) the date of issue of the licence;

(7) the Controllers signature.

Conditions of retail licence

46 A licensed retailer may only-

(1) retail from the site specified on its retail licence;

(2) purchase prescribed petroleum products from a licensed wholesaler or a licensed manufacturer;

47 A licensed retailer must-

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(1) inform the Controller, in writing, of any change of address or telephone number within 30 days of the relevant change taking effect;

(2) pay the annual licence fee determined in Annexure B before the anniversary of the licence issued;

(3) comply with the Charter;

(4) submit information stipulated in regulation 60;

(5) allow any person authorised by the Controller in accordance with the Act, access to the relevant site for the purposes of inspections or conducting an investigation;

(6) at all times comply with the Act, this Regulation and all other national, provincial and local government laws applicable for the operation of the activity concerned, including laws relating to labour, safety, hazardous substances, security, health and environment.

(7) if so instructed, submit to the Controller on a date and in the manner specified in the instruction-

(a) information necessary for the regulation of prices of prescribed petroleum products;

(b) data on prescribed petroleum products purchased or sold during a specified period and stock levels of the prescribed petroleum products;

(c) in respect of progress in complying with the objectives of the Charter; and

(d) any other information that might be required for regulatory purposes.

48 A retail licence, or a certified copy thereof, must be prominently displayed at the place of business, where any person entering the site may read it.

49 A corresponding site licence, or a certified copy thereof, must be prominently displayed at the place of business, where any person entering the site may read it.

50 A licensed retailer must not allow self-service by consumers of prescribed petroleum products on the premises of a licensed retailer.

51 A retail licence is not, under any circumstances, transferable.

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Temporary Retail licences

52 A temporary licence must only be issued in respect of a licensed retailing activity upon the payment, by the applicant, of the application fee into a bank account, as stipulated in Annexure B.

53 An application for a temporary retail licence must be made to the Controller on the application form contained in Annexure A and must–

(1) be made in writing;

(2) indicate that the activity is a going concern;

(3) include proof of hardship that would result if the licensed activity ceased to be licensed;

(4) be accompanied by a certified copy of the original licence certificate;

(5) be accompanied by a certified copy of the applicant's identity document if the applicant is an individual; and

(6) be accompanied by a certified copy of the business entity's registration documents.

54 The Controller may set special conditions for a temporary retail licence according to the circumstances presented in the application contemplated in regulation 53.

Commencement and continuation of business under retail licence

55 A licensed retailer must commence with retailing activities at the corresponding site within a period of six months after the date on which a retail licence has been issued to the licensee, failing which the licence lapses.

56 The Controller may, upon application in writing, extend the period of time contemplated in regulation 55 for a consecutive period of six months for a total period not exceeding 12 months.

57 The Controller may request the information necessary from the applicant, concerning an application contemplated in regulation 56.

Documents supporting a retail licence application

58 An applicant for a retail licence that does not qualify in terms of Section 2D of the Act must submit–

(1) a certified copy of the applicant's identity document and, in the case of a non-South African citizen, a permanent residence permit or employment

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permit and proof of residence in South Africa, or proof of domicile in South Africa, as the case may be;

(2) a certified copy of its registration documents, if the applicant is a corporate entity or a trust-

(a) a certified copy of the Certificate of Incorporation (CM1) if the applicant is a company; or

(b) a certified copy of the Founding Statement (CK1) if the applicant is a close corporation;

(3) proof of the publication of the notice of application contemplated in regulation 36;

(4) in the case of an application made by a person claiming to be a historically disadvantaged South African, a declaration by that person to this effect;

(5) the net present value calculations including-

(a) the result of the net present value calculation; and

(b) all data and assumptions used in the calculation of the net present value;

(6) a declaration by the applicant stating that the applicant is not owned or controlled by a licensed wholesaler;

(7) a declaration by the applicant stating that the applicant is in compliance Act, this Regulation and all other national, provincial and local government laws applicable for the operation of the activity concerned, including laws relating to labour, safety, hazardous substances, security, health and environment;

(8) in the case of non-natural person, on the extent of ownership of the business by historically disadvantaged South Africans as defined in the Charter.

(9) In the case of a retail business owned by a licensed wholesaler for training purposes, the licensed wholesaler must submit a declaration stating that the licensed retailing activity will be used for training purposes.

59 An applicant for a retail licence that qualifies in terms of Section 2D of the Act must submit –

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(1) a certified copy of the applicant's identity document and, in the case of a non-South African citizen, a permanent residence permit or employment permit and proof of residence in South Africa, or proof of domicile in South Africa, as the case may be

(2) a certified copy of its registration documents, if the applicant is a corporate entity or a trust-

(a) a certified copy of the Certificate of Incorporation (CM1) if the applicant is a company; or

(b) a certified copy of the Founding Statement (CK1) if the applicant is a close corporation;

(3) in the case of an application made by a natural person claiming to be a historically disadvantaged South African, a declaration by that person to this effect;

(4) in the case of an application made by a juristic person, a declaration on the extent of ownership of the business by historically disadvantaged South Africans as defined in the Charter;

(5) a declaration by the applicant stating that the applicant is in compliance Act, this Regulation and all other national, provincial and local government laws applicable for the operation of the activity concerned, including laws relating to labour, safety, hazardous substances, security, health and environment; and

(6) In the case of a retail business owned by a licensed wholesaler for training purposes, the licensed wholesaler must submit a declaration stating that the licensed retailing activity will be used for training purposes.

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Annual information to be submitted to Controller by a licensed retailer

60 A licensed retailer must submit to the Controller, not later than the end of February of each year, in the manner specified in Annexure A, information in respect of the preceding calendar year-

(1) a declaration that the ownership of the licensed activity has not changed;

(2) the volumes of each prescribed petroleum products sold;

(3) the number of employees by race, gender and disabled persons;

(4) progress and an updated plan in respect of complying with the objectives of the Charter;

(5) a report on the training and the number and title of the qualifications obtained by learners in the employ of the licensee; and

(6) a declaration that a wholesaler, with the exception of a retail activity licensed to a wholesaler for training purposes, does not own the licensed retail business.

61 Qualifications contemplated in subregulation 60(5) should be accredited by the South African Qualifications Authority established in terms of the National Qualifications Framework Act, 1995 (Act No. 58 of 1995).

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CHAPTER 3
GENERAL PROVISIONS

Application for duplicate site or retail licence

62 When a site or retail licence has been lost, damaged or destroyed the licensee must apply to the Controller for a duplicate thereof.

63 An application contemplated in regulation 62 must be accompanied by -

(1) an affidavit stating reason/s for the application;

(2) the applicant's identity number or entity registration number, as the case may be, and the number of the lost, damaged or destroyed licence, and

(3) proof of payment of the applicable fee as stipulated in Annexure B.

Surrender, suspension and cancellation of licence

64 A licensee may at any time, by written notice, surrender a licence to the Controller.

65 If a licensee fails to comply with any provision of the Act or this Regulation, notwithstanding any other penalty that may be imposed under the Act or any other law, and subject to regulation 66, the Controller may cancel or suspend the licence.

66 The Controller may not cancel or suspend a licence unless–

(1) the licensee has been informed in writing of the intention to cancel or suspend such licence by–

(a) setting out the particulars of such failure or contravention; and

(b) calling upon the licensee to make such representations to the Controller that may be necessary, within 30 days after the date of that notice;

(2) the Controller has considered-

(a) any steps taken by the licensee to remedy the failure or contravention concerned or to prevent any such failure or contravention from being repeated; and

(b) any other relevant matters submitted by way of representations contemplated in subregulation (1)(b).

67 A licence ceases to be valid if-

(1) the licence is surrendered to the Controller;

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(2) the licence is cancelled by the Controller;

(3) the licensee fails to comply with the Act or this Regulation and does not remedy the failure within the time period specified by the Controller; or

(4) The licensed activity is no longer a going concern.

68 If a licence has ceased to be valid, the licencee must surrender the licence to the Controller within a period of 14 days, from the date of receipt of the notification on which it ceased to have effect.

Time period for decision making

69 The Controller must make a decision, as required by this Regulation, within a period of 90 days provided that in the first 12 months of operation of this Regulation, the period must be 300 days.

Appeals

70 The period contemplated in section 12A(3) of the Act shall be 90 days.

False Declarations

71 The Controller may revoke or amend any decision or the award of any licence that was influenced by a false declaration, including any material non-disclosure.

Additional Information

72 The Controller may request additional information from an applicant that may be necessary to enable the Controller to make a decision regarding the granting of a licence.

73 The Controller may request additional information from a licensee that may be necessary for regulatory purposes.

Amendment of licence

74 A licensee may apply, in writing, to the Controller for a licence to be amended by-

(1) specifying the amendment sought; and

(2) setting out the reasons for the amendment sought.

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75 The Controller must consider the request and may issue an amended licence provided that-

(1) the change will not affect any rights, debts, liabilities or obligations of the licensee, nor render defective any legal proceedings by or against the licensee, and any legal proceedings that could have been continued or commenced by or against it prior to such change; and

(2) the applicant has paid the amendment fee stipulated in Annexure B.

Publication of data by the Controller

76 The Controller will, after 12 months of the commencement of Amendment Act, as at the end of June and December each year, and within 30 days of the end of these months, publish data on-

(1) valid retail licences;

(2) the number of valid retail licences held by historically disadvantaged South Africans;

(3) the number of retail licences issued in the calendar year concerned;

(4) the number of lapsed retail licences in the calendar year concerned;

(5) the number of valid site licences;

(6) the number of valid site licences held by historically disadvantaged South Africans;

(7) the number of site licences issued in the calendar year concerned;

(8) the number of lapsed site licences in the calendar year concerned;

(9) the licence numbers of all valid licences;

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ANNEXURE A: FORMS

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the dme

Department:
Minerals and Energy
REPUBLIC OF SOUTH AFRICA

APPLICATION FOR SITE OR RETAIL LICENSE

PETROLEUM PRODUCTS ACT 120 OF 1977 - PETROLEUM PRODUCTS REGULATIONS 2005

INSTRUCTIONS

1. READ REGULATIONS BEFORE COMPLETING THIS APPLICATION FORM.
2. USE CAPITAL LETTERS AND WHERE APPLICABLE MARK WITH A ☒.
3. USE A SEPARATE FORM FOR EACH LICENSE APPLICATION.

4. INDICATE TYPE OF LICENSE ARE YOU APPLYING FOR

☐ SITE LICENSE ☐ RETAIL LICENSE

5. INDICATE IF APPLICATION IS FOR AN EXISTING OPERATION (CONVERSION LICENCE) OR A NEW OPERATION APPLICATION.

☐ CONVERSION LICENSE ☐ NEW LICENSE

OFFICIAL USE ONLY

SITE LICENCE NUMBER

RETAIL LICENCE NUMBER

SECTION 1: APPLICANT'S DETAILS (COMPLETE FOR SITE AND RETAIL LICENSE APPLICATIONS)

REGISTERED NAME IN FULL

TRADE NAME IN FULL

POSTAL ADDRESS OF REGISTERED OFFICE

POSTAL CODE

PHYSICAL ADDRESS OF REGISTERED OFFICE

POSTAL CODE

BUSINESS TEL NO. (INCLUDE CODE)

MOBILE PHONE NUMBER

FAX NO. (INCLUDE CODE)

E-MAIL ADDRESS

ENTER DETAILS OF CONTACT MEMBER OF ENTITY **(FOR SITE LICENSE APPLICATION ENTER APPLICANTS DETAILS)**

TITLE

FAMILY NAME

FIRST NAME

IDENTITY NO.

SECTION 2: APPLICANT'S BUSINESS DETAILS (COMPLETE FOR SITE AND RETAIL LICENSE APPLICATIONS IF NESSACARY)

Indicate by cross ☒ type of entity or specify in "other"

☐ LIMITED LIABILITY COMPANY ☐ CLOSED CORPORATION ☐ SOLE TRADER

☐ INDIVIDUAL ☐ PARTNERSHIP ☐ BODY CORPORATE

☐ TRUST ☐ OTHER

IF OTHER (SPECIFY)

REGISTRATION NUMBER

TAX NUMBER

INDICATE OWNERSHIP BY HISTORICALLY DISADVANTAGED SOUTH AFRICANS (HDSA's) IN PERCENTAGE %

SECTION 3: COMPLETE FOR SITE LICENSE APPLICATION ONLY

ERF OR STAND OR LOT NUMBER AND TITLE OF PROPERTY AS IT APPEARS ON THE TITLE DEED OF THE PROPERTY

PHYSICAL ADDRESS (where retailing operations are/will be carried on)

STREET NAME1

STREET NAME2

STREET No.

SUBURB

TOWN/CITY

POSTAL CODE

MUNICIPAL AREA/ AUTHORITY

INDICATE PROVINCE

☐ EASTERN CAPE ☐ FREE STATE ☐ GAUTENG ☐ KWAZULU-NATAL

☐ LIMPOPO ☐ MPUMALANGA ☐ NORTHERN CAPE ☐ NORTH WEST

☐ WESTERN CAPE

GLOBAL POSITIONING SYSTEM (GPS) COORDINATES OF PROPERTY WHERE RETAIL OPERATIONS ARE/WILL BE CARRIED ON

NOTE: Coordinates must be recorded from the centre of the property.

LATITUDE: degrees, minutes, seconds ° ' "

LONGITUDE: degrees, minutes, seconds ° ' "

SECTION 4: COMPLETE FOR A RETAIL LICENSE APPLICATION ONLY

TRADE NAME/ PROPOSED TRADE NAME

NAME OF FUEL SUPPLIER (wholesaler / refiner)

OIL COMPANY BRAND DISPLAYED/TO BE DISPLAYED ON SITE

INDICATE TYPE OF RELATIONSHIP BETWEEN SITE OWNER AND RETAILER (DEALER)
(Select one of the following)

☐ RETAILER OWNED, RETAILER OPERATED ☐ 3rd PARTY OWNED, OIL COMPANY LEASED, RETAILER OPERATED

☐ OIL COMPANY OWNED, RETAILER OPERATED ☐ OIL COMPANY TRAINING SITE

☐ OTHER

IF OTHER (SPECIFY)

SITE LICENSE NO. IF ISSUED
Note: In case where a new retailer applying for a retail license to replace existing retailer, in such a case please enter the site license number.

VOLUMES (LITRES) SOLD IN LAST CALENDAR YEAR, (For Retailing Operations that existed before the 31 March 2006)

PETROL

DIESEL

ILLUMINATING PARAFFIN

DOCUMENTS TO BE ATTACHED FOR A NEW SITE LICENSE APPLICATION

1. A certified copy of the applicant's identity document and, in the case of a non- South African citizen, permanent residence permit or employment permit and proof of residence in South Africa, or proof of domicile in South Africa, as the case may be.
2. A certified copy of the business entity's registration documents, if the applicant is a corporate entity or a trust.
3. The land use-zoning certificate issued by a competent authority, authorising retailing from the site.
4. The Record of Decision of the environmental authorities in accordance with the Environmental Conservation Act 1989 as amended or the National Environmental Management Act 1989 as amended a. permitting retailing operations on the site; b. submit an environmental management plan; and c. proof of financial provision for the purposes of rehabilitating a site upon the cessation of retailing activities.
5. The land owner (applicant) must provide the title deed to the land on which the site is located, and in the case of publicly owned land the written permission of the landowner.
6. The permission by the National Roads Authority to develop the site, if the site allows or is intended to allow access by vehicles to a national road.
7. A declaration by the applicant stating that the applicant is in compliance with the Act, this Regulation and all other applicable national, provincial and local government laws, including laws relating to labour, safety, hazardous substances, security, health and environment.
8. Proof of the notice of application, published in two newspapers circulated in the area of the proposed activity.

DOCUMENTS TO BE ATTACHED FOR CONVERSION SITE LICENSE APPLICATION

1. A certified copy of the applicant's identity document and, in the case of a non- South African citizen, permanent residence permit or employment permit and proof of residence in South Africa, or proof of domicile in South Africa, as the case may be
2. A certified copy of the business entity's registration documents, if the applicant is a corporate entity or a trust.
3. A certified copy of the land use-zoning certificate issued by a competent authority, authorising retailing from the site.
4. A certified copy of a Record of Decision of the environmental authorities in accordance with the Environmental Conservation Act 1989 as amended or the National Environmental Management Act 1999 as amended permitting retailing operations on the site after the year 1999
5. The land owner (applicant) must provide a certified copy of the title deed to the land on which the site is located, and in the case of publicly owned land the written permission of the landowner or an applicant who exists before the 01 February 2006, a certified copy of the lease agreement or a certified copy of the offer to purchase the site or a certified copy of the offer to lease the site.
6. The permission by the National Roads Authority to develop the site, if the site allows or is intended to allow access by vehicles to a national road.
7. A declaration by the applicant stating that the applicant is in compliance with the Act, this Regulation and all other applicable national, provincial and local government laws, including laws relating to labour, safety, hazardous substances, security, health and environment.
8. A declaration by the applicant stating that retailing operations were being conducted on the site at the commencement of the Amendment Act; or if the applicant is in the process of developing a site at the commencement of the Amendment Act, the applicant must submit a statement signed by the appropriate building inspector or any other competent authority stating the date on which building plans for the site were approved by the appropriate authorities and that construction in accordance therewith has commenced.
9. Provide proof of any financial provision made for the purposes of rehabilitating a site upon the cessation of retailing activities.

DOCUMENTS TO BE ATTACHED FOR A NEW RETAIL LICENSE APPLICATION

1. A certified copy of the applicant's identity document and, in the case of a non- South African citizen, permanent residence permit or employment permit and proof of residence in South Africa, or proof of domicile in South Africa, as the case may be.
2. A certified copy of the business entity's registration documents, if the applicant is a corporate entity or a trust.
3. In the case of an application made by a person claiming to be a historically disadvantaged South African, a declaration by that person to this effect.
4. A tax clearance certificate of the year preceding the date of application.
5. Proof of the notice of application, published in two newspapers circulated in the area of the proposed activity.
6. The net present value calculations including- 1. the result of the net present value calculation; and 2. all data and assumptions used in the calculation of the net present value.
7. A declaration by the applicant stating that the applicant is not owned or controlled by a licensed wholesaler.
8. A declaration by the applicant stating that the applicant is in compliance with the Act, this Regulation and all other applicable national, provincial and local government laws, including laws relating to labour, safety, hazardous substances, security, health and environment.
9. In the case of non-natural person, on the extent of ownership of the business by historically disadvantaged South Africans as defined in the Charter.
10. In the case of a retail business owned by a licensed wholesaler for training purposes, the licensed wholesaler must submit a declaration stating that the licensed retailing activity will be used for training purposes.

DOCUMENTS TO BE ATTACHED IF THIS IS AN APPLICATION FOR CONVERSION RETAIL LICENSE

1. A certified copy of the applicant's identity document and, in the case of a non- South African citizen, permanent residence permit or employment permit and proof of residence in South Africa, or proof of domicile in South Africa, as the case may be.
2. a certified copy of the business entity's registration documents, if the applicant is a corporate entity or a trust.
3. In the case of an application made by a person claiming to be a historically disadvantaged South African, a declaration by that person to this effect.
4. A tax clearance certificate of the year preceding the date of application.
5. a declaration by the applicant stating that the applicant is not owned or controlled by a licensed wholesaler.
6. A declaration by the applicant stating that the applicant is in compliance with the Act, this Regulation and all other applicable national, provincial and local government laws, including laws relating to labour, safety, hazardous substances, security, health and environment.
7. In the case of non-natural person, on the extent of ownership of the business by historically disadvantaged South Africans as defined in the Charter.
8. In the case of a retail business owned by a licensed wholesaler for training purposes, the licensed wholesaler must submit a declaration stating that the licensed retailing activity will be used for training purposes.

DECLARATION

I (full names).....hereby declare that all information provided herein is within my personal knowledge true and correct

1. I am duly authorised to make this declaration;
2. I am the designated person responsible for this license and any conditions attached thereto;
3. I have read and understood the regulations related hereto, with specific reference to Regulation 71 regarding any false declaration; and
4. all information provided herein is to the best of my knowledge true and correct.

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

..... (year)

.....
Signature

I certify that the deponent:

(a) has acknowledged that he knows and understand the contents of this application form and its annexures, that he has no objection to taking the prescribed oath and that he considers the oath binding on 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: _____

NOTE: If this application form is completed electronically it must be printed out, signed and submitted with the necessary supporting documents to the address below.

Submit this form to:-

Controller of Petroleum Products
Department of Minerals and Energy
Private Bag X59
Pretoria
0001

Or

Controller of Petroleum Products
Department of Minerals and Energy
Mineralia Centre
234 Visagie Street
Pretoria
0001

Enquires
Contact: Director Petroleum and Gas Regulation
Contact No.: (012) 317 8648
Fax No.: (012) 322 8570
E-Mail: petroleum.controller@dme.gov.za

the dme

Department:
Minerals and Energy
REPUBLIC OF SOUTH AFRICA

RETAIL LICENCE ANNUAL INFORMATION (SUBMISSION FORM)

PETROLEUM PRODUCTS ACT 120 OF 1977 - PETROLEUM PRODUCTS REGULATIONS 2005

INSTRUCTIONS	PLEASE COMPLETE
1. READ REGULATIONS BEFORE COMPLETING THIS APPLICATION FORM.	SITE LICENCE NUMBER
2. USE CAPITAL LETTERS AND WHERE APPLICABLE MARK WITH A ☒.	RETAIL LICENCE NUMBER

SECTION 1: COMPLETE LICENSEE'S PARTICULARS

REGISTERED NAME IN FULL

TRADE NAME IN FULL

ENTER DETAILS OF CONTACT MEMBER OF ENTITY

TITLE

FAMILY NAME

FIRST NAME

IDENTITY NO.

SECTION 2: COMPLETE IF THERE IS A CHANGE IN LICENSEE'S PARTICULARS

TRADE NAME IN FULL

POSTAL ADDRESS OF REGISTERED OFFICE

POSTAL CODE

BUSINESS TEL NO. (INCLUDE CODE)

MOBILE PHONE NUMBER

FAX NO. (INCLUDE CODE)

E-MAIL ADDRESS

SECTION 3: INFORMATION TO BE COMPLETED IN RESPECT OF ANNUAL INFORMATION SUBMISSION

REGISTERED NAME IN FULL

NAME OF FUEL SUPPLIER (wholesaler / refiner)

OIL COMPANY BRAND DISPLAYED/TO BE DISPLAYED ON SITE

INDICATE OWNERSHIP BY HISTORICALLY DISADVANTAGED SOUTH AFRICANS (HDSA's) IN PERCENTAGE %

INDICATE TYPE OF RELATIONSHIP BETWEEN SITE OWNER AND RETAILER (DEALER)
(Select one of the following)

☐ RETAILER OWNED, RETAILER OPERATED

☐ 3rd PARTY OWNED, OIL COMPANY LEASED, RETAILER OPERATED

☐ OIL COMPANY OWNED, RETAILER OPERATED

☐ OIL COMPANY TRAINING SITE

☐ OTHER

IF OTHER (SPECIFY)

VOLUMES (LITRES) SOLD IN LAST CALENDAR YEAR

PETROL

DIESEL

ILLUMINATING PARAFFIN

INDICATE NUMBER OF EMPLOYEES BY RACE, GENDER AND DISABLITY

BLACK EMPLOYEES:	MALE	
	FEMALE	
	DISABLED	
COLOURED EMPLOYEES:	MALE	
	FEMALE	
	DISABLED	
INDIAN EMPLOYEES:	MALE	
	FEMALE	
	DISABLED	
WHITE EMPLOYEES:	MALE	
	FEMALE	
	DISABLED	

TOTAL NUMBER OF EMPLOYEES

SECTION 4: COMPLETE DETAILS ON TRAINING OF LICENSEE'S EMPLOYEES

NUMBER OF EMPLOYEES TRAINED

INDICATE TITLE AND QUALIFICATIONS OBTAINED BY EMPLOYEES

DOCUMENTS TO BE ATTACHED TO THE SUBMISSION OF ANNUAL INFORMATION FORM

1. A declaration by the licensee that the ownership of the licensed activity has not changed.
2. A declaration that a wholesaler, with the exception of a retail activity licensed to a wholesaler for training purposes, does not own the licensed retail business.
3. Progress and an updated plan in the respect of complying with the objectives of the Charter.

DECLARATION

I (full names).....hereby declare that all information provided herein is within my personal knowledge true and correct

1. I am duly authorised to make this declaration;
2. I am the designated person responsible for this license and any conditions attached thereto;
3. I have read and understood the regulations related hereto , with specific reference to Regulation 71 regarding any false declaration; and
4. all information provided herein is to the best of my knowledge true and correct.

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

..... (year).

.....
Signature

I certify that the deponent:

(a) has acknowledged that he knows and understand the contents of this application form and its annexures, that he has no objection to taking the prescribed oath and that he considers the oath binding on 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: _____

NOTE: If this Annual submission form is completed electronically it must be printed out, signed and submitted with the necessary supporting documents to the address below.

Submit this form to:-

Controller of Petroleum Products
Department of Minerals and Energy
Private Bag X59
Pretoria
0001

Or

Controller of Petroleum Products
Department of Minerals and Energy
Mineralia Centre
234 Visagie Street
Pretoria
0001

Enquires
Contact: Director Petroleum and Gas Regulation
Contact No.: (012) 317 8646
Fax No.: (012) 322 8570
E-Mail: petroleum.controller@dme.gov.za

the dme

Department:
Minerals and Energy
REPUBLIC OF SOUTH AFRICA

APPLICATION FOR TEMPORARY LICENCE

PETROLEUM PRODUCTS ACT 120 OF 1977 - PETROLEUM PRODUCTS REGULATIONS 2005

INSTRUCTIONS	PLEASE COMPLETE
1. READ REGULATIONS BEFORE COMPLETING THIS APPLICATION FORM. 2. USE CAPITAL LETTERS AND WHERE APPLICABLE MARK WITH A ☒.	RETAIL/SITE/WHOLESALE OR MANUFACTURING LICENCE NUMBER

SECTION 1: APPLICANTS DETAILS

FULL NAME OF TEMPORARY LICENCE APPLICANT IF NOT AN INDIVIDUAL (for example, company name or trust name etc.)

FULL NAME OF TEMPORARY LICENCE APPLICANT IF AN INDIVIUAL
NOTE: In the event that a corporate entity or partnership, trust or body other than an individual makes the application, state here the personal particulars of the person authorised to make this application on behalf of such body.

TITLE

FAMILY NAME

FIRST NAME

IDENTITY NO.

INDICATE REASONS WHY APPLICANT (ABOVE) IS THE APPROPRIATE PERSON TO BE ISSUED WITH A TEMPARORY LICENCE

SECTION 2: COMPLETE REASONS FOR APPLICATION AND INCLUDE MOTIVATIONS FOR A TEMPORY LICENCE

DOCUMENTS TO BE ATTACHED TO THIS APPLICATION FORM

1. A certified copy of the applicants identity document, if the applicant is an individual
2. A certified copy of the entity's registration documents.

DECLARATION

I (full names).....hereby declare that all information provided herein is within my personal knowledge true and correct

1. I am duly authorised to make this declaration, and
2. I am the designated person responsible for this license and any conditions attached thereto, and
3. I have read and understood the regulations related hereto , with specific reference to Regulation 47 regarding any false declaration, and
4. all information provided herein is to the best of my knowledge true and correct.

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

..... (year).

.....
Signature

I certify that the deponent:

(a) has acknowledged that he knows and understand the contents of this application form and its annexures, that he has no objection to taking the prescribed oath and that he considers the oath binding on his conscience; and

(b) has in the prescribed manner sworn that the contents of this application form and its annuexures are true and signed same before me at ..... (place) on this .....day of .....(month).....(year).

_____

COMMISSIONER OF OATHS

Name: _____

Address: _____

Capacity: _____

NOTE: If this Temporary retail licence application is completed electronically it must be printed out, signed and submitted with the necessary supporting documents to the address below.

Submit this form to:-

Controller of Petroleum Products
Department of Minerals and Energy
Private Bag X59
Pretoria
0001

Or

Controller of Petroleum Products
Department of Minerals and Energy
Mineralia Centre
234 Visagie Street
Pretoria
0001

Enquires
Contact: Director Petroleum and Gas Regulation
Contact No.: (012) 317 8181
Fax No.: (012) 322 5224
E-Mail: petroleum.controller@dme.gov.za

ANNEXURE B: APPLICATION AND LICENCE FEES

Site licence application fee	R 1,000
Retail licence application fee	R 500
Annual retail licence fee	R 500
Temporary retail licence fee	R 500
Duplicate licence application fee	R 500
Site licence transfer fee	R 500
Amendment licence fee	R500

Payment must be deposited into the following relevant regional account closest to the region where the application is lodged–

Bank:	ABSA Bank
Account holder:	Department of Minerals and Energy Petroleum Products

BANK ACCOUNT NUMBER	ABSA BRANCH NAME	SPECIAL NAME
40-5362-0443	Andries/Schoeman	Deposit Account- Pretoria Head Quarters
40-5916-0483	Parktown	Gauteng Sub Deposit Account
40-5916-0572	Klerksdorp	North West Sub Deposit Account
40-5916-0603	Pietersburg	Limpopo Sub Deposit Account
40-5916-0637	Kimberley	Northern Cape Sub Deposit Account
40-5916-0687	Port Elizabeth	Eastern Cape Sub Deposit Account
40-5916-0776	Heerengracht	Western Cape Sub Deposit Account
40-5916-4128	Dundee	Kwa-Zulu Natal Sub Deposit Account
40-5916-4233	Welkom	Free State Sub Deposit Account
40-5916-4275	Witbank	Mpumalanga Sub Deposit Account

Include your reference number on the deposit slip.

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