Polity.org.za

No. 963 **29 September 2006**

NATIONAL ENERGY REGULATOR

Rules in terms of Gas Act, 2001 (Act no. 48 of 2001)

In terms of section 34(3) **(k)** of the Gas Act, 2001 (Act no. 48 of 2001), the National Energy Regulator (NERSA) has prepared Rules which will affect inspections falling under this Act. The document, **"*Gas* Act Rules, Part Two: Inspections 2006** which contains these Rules is hereby promulgated. Electronic copies of the document may be downloaded from www.nersa.org.za/

Enquiries can be directed to Mr Themba Tsela, Executive Manager: Hydrocarbons Regulation. Contact details are:

- E-mail: themba.tsela@nersa.org.za; or
- Fax: (012) 401 4767; or
- Telephone (012) 401 4605



Smunda S. Mokoena
Chief Executive Officer

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

Polity.org.za

GAS ACT, 2001 (ACT No. 48 of 2001)

RULES MADE BY THE NATIONAL ENERGY REGULATOR (NERSA) IN TERMS OF SECTION 34(3) OF THE ACT
PART TWO: Entry, inspection and gathering of information by the Energy Regulator

EXPLANATORY MEMORANDUM

The provisions of Section 34(3)(k) of the Gas Act, 2001 (Act No. 48 of 2001) authorise the Energy Regulator to make Rules regarding the inspection of and enquiry into the construction and operation of any gas facility or any trading in gas. Section 29 of that Act determines the powers of the Energy Regulator with regard to entry, inspection and gathering of information.

RULES

DEFINITIONS

1. In these Rules any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned unless the context indicates otherwise.

"Act" means the Gas Act, 2001 (Act No. 48 of 2001);

"authorised person" means a person contemplated in rule 2.

AUTHORISED PERSONS

2. A person becomes an authorised person when that person has been issued with a valid authorisation permit by the Energy Regulator reflecting the following -

(a) the logo of the Energy Regulator;
(b) the postal and physical addresses of the Energy Regulator;
(c) the telephone and fax numbers of the Energy Regulator;
(d) the full names of the person concerned;
(e) a photograph of the face and head of the person concerned;
(9 the identity number of the person concerned;
(g) the NERSA personnel number of the person concerned;
(h) the date of issue of the authorisation;

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

Polity.org.za

(i) the date of the resolution by NERSA making the authorisation;
(j) the date of expiry of the authorisation;
(k) the words: "the person identified in this authorisation is duly authorised by the Energy Regulator of South Africa to -
  (i) at all reasonable times enter any property on which construction or operation of any gas facility or any trading in gas is taking place and to inspect any facility, equipment, machinery, book, account or other document found thereat; and
  (ii) require any person to furnish the Energy Regulator with such information as may be necessary for the proper application of the Gas Act of 2001";
(l) the name of the Chief Executive Officer of the Energy Regulator;
(m) the signature of the Chief Executive Officer of the Energy Regulator.

3. The period of validity of an authorisation contemplated in section 2 of these Rules must expire -

  (a) on the date specified therein; or
  (b) within twelve months after the date of issue; or
  (c) in the case of a NERSA employee upon termination of service;

whichever is the sooner.

AUTHORISATION PERMIT

4. An authorised person must, upon request by an owner or operator of the facility or activity being inspected show his/her authorization permit to any person requesting it.

ENTRY, INSPECTION AND GATHERING OF INFORMATION

5. Licensees must in accordance with the Act permit any person duly authorized in writing by the NERSA to enter and inspect any property on which the licenced activity is taking place.

6. Licensees must furnish the NERSA with such information as may be necessary for the proper application of the Act.

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

Polity.org.za

7. A licensee may allow any authorized person to accompany it on any vehicular and airborne inspection of the licensee's property on which a licenced activity takes place.

8. A Licensee must provide appropriate health and safety equipment to an authorized person conducting an inspection.

CONFIDENTIAL INFORMATION

9. When an authorised person inspects any facility, equipment, machinery, book, account or other document, the person present, if any, at such inspection representing the owner or operator of such facility, equipment, machinery, book, account or other document must inform the authorised person in writing of any information that the owner or operator regards as non-generic confidential, personal, commercially sensitive or of a proprietary nature and must clearly identify such information.

10. Any failure by the person present, if any, at such inspection representing the owner or operator of the facility or activity being inspected to inform an authorised person in writing of any information that is non-generic confidential, personal, commercially sensitive or of a proprietary nature at the time the authorised person conducts an inspection, does not preclude the owner or operator of the facility or activity that was inspected from subsequently informing the Energy Regulator that certain information that was inspected by an authorised person is regarded by the owner or operator as non-generic confidential, personal, commercially sensitive or of a proprietary nature, provided that the information so regarded is clearly identified.

11. The Energy Regulator is not required to treat any information as non-generic confidential, personal, commercially sensitive or of a proprietary nature before it or an authorised person has been so informed of same by the owner or operator of the facility or activity being inspected. Nothing in

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

Polity.org.za

this rule shall affect the applicability of Chapter 5 of the Promotion of Access to information Act, 2000 (Act No **2** of 2000).

12. When an authorised representative is informed in writing that information acquired during an inspection is non-generic confidential, personal, commercially sensitive or of a proprietary nature that authorised representative must convey such to the Energy Regulator and the provisions of Section 8(9)(a) of the National Energy Regulator Act, 2004 (Act No. 40 of 2004) apply.

SHORT TITLE AND COMMENCEMENT

13. These Rules are called the Gas Act Rules, Part Two: Inspections 2006 and come into operation on 01 October 2006.

Polity.org.za