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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF MINERAL RESOURCES AND ENERGY

NO. 4465

1 March 2024

PETROLEUM PRODUCTS ACT, 1977 (ACT NO. 120 OF 1977)

I, Mr. Samson Gwede Mantashe, the Minister of Mineral Resources and Energy hereby issue the General Guidelines for the Submission of Internal Appeals to the Minister in terms of the Petroleum Products Act, 1977 (Act No. 120 of 1977), as set out in the Schedule.



MR S. G. MANTASHE, MP
MINISTER OF MINERAL RESOURCES AND ENERGY
DATE: 26/02/2024

SCHEDULE

GENERAL GUIDELINES FOR THE SUBMISSION OF INTERNAL APPEALS TO THE MINISTER OF MINERAL RESOURCES AND ENERGY IN TERMS OF SECTION 12A OF THE PETROLEUM PRODUCTS ACT, 1977 (ACT NO. 120 OF 1977)

1. Introduction

- 1.1 In terms of section 12A(1) of the Petroleum Products Act, 1977 (as amended) (hereafter referred to as "the Act"), any person directly affected by a decision of the Controller of Petroleum Products (hereafter referred to as "the Controller") may, notwithstanding any other rights that such a person may have, appeal to the Minister of Mineral Resources and Energy (hereafter referred to as "the Minister") against such decision. The affected party lodging an appeal is hereinafter referred to as "the Appellant".
- 1.2 The Chief Directorate: Legal Services in the Department of Mineral Resources and Energy (hereinafter referred to as "the Department") is responsible for the administration of appeals and making recommendations on appeals to the Minister.
- 1.3 The purpose of this guideline is to assist all persons who wish to submit an internal appeal to the Minister in terms of the Act with information as to the manner and form of the appeal to be lodged, to ensure the efficient and procedurally fair administration of appeals.
- 1.4 The appeal process affords any person directly affected by the Controller's decision with an opportunity for the *de novo* consideration of the matter by the Minister. The appeal is therefore wider than simply a review of the Controller's decision. In addition to the grounds of appeal, additional information in support of the appeal may be lodged.

2. Timeframe for lodging an appeal

- 2.1 In accordance with section 12A(2) of the Act, an appeal must be lodged **within 60 days** after the decision of the Controller has been made known to the affected person.
- 2.2 The Minister is not empowered to consider a late appeal, and it is incumbent upon the Appellant to establish that the appeal has been lodged within the legislated time frame.
- 2.3 The 60-day period must be computed exclusively of the first day and inclusively of the last day, unless the last day happens to fall on a Saturday, Sunday or public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Saturday, Sunday or public holiday.

3. Format of the appeal

- 3.1 The appeal must be in writing, setting out the grounds of the appeal and the issues to be considered by the Minister. These issues for consideration should be clearly and coherently identified, and sequentially arranged.
- 3.2 Any documentary evidence upon which the appeal is based must be attached to the appeal.
- 3.3 Although there is no prescribed format for the submission of an appeal, the appeal must-
- (a) be submitted in duplicate;
 - (b) attach the letter communicating the decision of the Controller, which is the subject of the appeal, unless it is a deemed refusal;
 - (c) contain original or certified copies of any documentary evidence;
 - (d) if the written appeal is longer than 15 pages (excluding annexures), contain an executive summary of not more than two (2) pages;
 - (e) if the written appeal is longer than 15 pages including annexures, be indexed and paginated; and
 - (f) be signed by and provide the full contact details of the Appellant or the Appellant's representative and, in the latter instance, include proof of mandate to lodge the appeal on behalf of any person, including a juristic person.

4. Notification of interested and affected parties, submission of the appeal and communication of the outcome of the appeal

- 4.1 The Appellant must notify any interested and affected party of the appeal by providing a copy of the appeal to such party and submit proof of such notification with the appeal.
- 4.2 An appeal to the Minister in terms of section 12A of the Act must be addressed to the Minister and marked for the attention of the Chief Directorate: Legal Services. The appeal must be delivered to the **Department at Trevenna Campus, Building 2B, corner of Francis Baard and Meintjes Streets, Sunnyside, Pretoria, 0002.**
- 4.3 **Please note that the Department does not accept the service of appeals via email.**
- 4.4 Receipt of the appeal will be acknowledged in writing, and an appeal reference number will be provided within five (5) working days of such receipt. Please contact Legal Services on 012 444 3922 or 012 444 3958 if receipt has not been confirmed in writing.

- 4.5 Third parties that objected during the licensing application process, or are recorded interested and affected parties, will be afforded twenty-one (21) calendar days¹ in which to submit representations on the appeal. The Appellants will be afforded twenty-one (21) calendar days² in which to reply to those representations.
- 4.6 Thereafter, the appeal will be considered, and the Minister will make a decision on the appeal.
- 4.7 In considering the appeal, the Minister will take into account all information submitted in the appeal together with the documents considered by the Controller, responses by interested and affected parties and any reply thereto.
- 4.8 The outcome of the appeal will be communicated to the Appellant as well as any interested and affected parties. The Appellant should also within seven (7) days of becoming aware of the decision, communicate the outcome to the affected or interested parties.

¹ Kindly refer to the computation of "days" in paragraph 2.3.

² Kindly refer to the computation of "days" in paragraph 2.3.

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