

Draft amendments to the rules under sections 21 (1) and 60

6 August 2024

(for public comment)

Explanatory note:

The amendments to the rules under sections 21 and 60 relating to the creation of a new special customs and excise warehousing type for imported bunker fuel, last published for public comment on 19 April 2024, have been reviewed after extensive public comments were received and considered. A new draft of the rule amendments is hereby published for a third round of public comment.

The second draft of the rules published on 19 April were ringfenced for imported “bunker fuel”. The approach in the third draft of the rules now accommodates a wider range of fuels on land, and the new warehouse type is for purposes of “bonded fuel goods”, namely a “land-based bonded fuel goods special storage warehouse” (land-based SOS) and a “sea-based bonded fuel goods special storage warehouse” (sea-based SOS).

“bonded fuel goods” are defined as –

- *imported distillate fuel, residual fuel and petrol in the case of a land-based SOS; and
- *imported distillate fuel or residual fuel in the case of a sea-based SOS.

Removals from land-based SOS –

- *home consumption (including for use by coasting vessels)
- *export (including supply as ship stores for use by foreign going vessels)
- *removals to BELN under export procedure after entry for home consumption and payment of duty
- *No re-warehousing allowed

Removals from sea-based SOS –

- *export (including supply as ship stores for use by foreign going vessels)
- *No supply to coasting vessels allowed
- *No re-warehousing allowed

A licensed marine remover (LMR) is created for purposes of –

- *removing bonded fuel goods (duty suspended) to or from bonded fuel goods SOSs
- *removing bonded fuel goods (duty paid) from land-based SOS to coasting vessels for use by such vessels

Other new provisions include –

- *procedure for obtaining various permissions in terms of the rules
- *procedure for notifying the Commissioner of certain occurrences
- *procedure to extend transportation period in relation to movements by LMR

*specified records to be kept by licensees of land-based and sea-based SOS and LMR.

GENERAL EXPLANATORY NOTE:

[] Words that are between square brackets and in bold typeface, indicate deletions from the existing rules

_____ Words that are underlined with a solid line, indicate insertions in the existing rules

SOUTH AFRICAN REVENUE SERVICE

No. R.

2024

**CUSTOMS AND EXCISE ACT, 1964
AMENDMENT OF RULES**

Under sections 21, 60 and 120 of the Customs and Excise Act, 1964 (Act 91 of 1964), the rules published in Government Notice R.1874 of 8 December 1995, are herewith amended to the extent set out in the Schedule hereto **with effect from**.....

EDWARD CHRISTIAN KIESWETTER

COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

SCHEDULE

Insertion of rules

1. The following rules are hereby inserted after rule 21.05.13:

“21.05A For the purposes of section 21(1) the rules numbered 21.05A followed by further digits relate, unless the context

otherwise indicates, to the storage of imported bonded fuel goods in special customs and excise storage warehouses

Part 1: General

Definitions

21.05A.01 For the purposes of these rules and any form or other document to which these rules relate, any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned and unless otherwise specified or the context otherwise indicates –

“BELN” means the Republic of Botswana, the Kingdom of Eswatini, the Kingdom of Lesotho or the Republic of Namibia;

“blending” in relation to bonded fuel goods in a bonded fuel goods special storage warehouse, means to combine such bonded fuel goods with any other fuel goods, mineral oil products, additives or other goods in a process which alters the tariff classification of the relevant fuel;

“bonded fuel goods” in relation to –

(a) a land-based bonded fuel goods special storage warehouse, means imported distillate fuel, residual fuel and petrol; and

(b) a sea-based bonded fuel goods special storage warehouse, means imported distillate fuel and residual fuel;

“bunkering” means, in the case of –

(a) a land-based bonded fuel goods special storage warehouse, supplying imported distillate or residual fuel to –

(i) a foreign-going vessel for use as ship stores by such vessel for export; or

(ii) a coasting vessel for use by such vessel in the territorial waters of the Republic; and

(b) a sea-based bonded fuel goods special storage warehouse, supplying imported distillate or residual fuel to a foreign-going vessel for use by such vessel as ship stores for export;

“coasting vessel” means a vessel in the territorial waters of the Republic engaged in the transportation of cargo between seaports within the Republic, but excludes a foreign-going vessel which—

- (a) whilst on a voyage to its end destination in the Republic engages in such transportation during that part of the voyage in the Republic; or
- (b) whilst on a voyage to a destination outside the Republic engages in such transportation during that part of the voyage in the Republic;

“distillate fuel”, in relation to –

- (a) a land-based bonded fuel goods special storage warehouse, means distillate fuel as defined in Additional Note 1(g) of Chapter 27 of Part 1 of Schedule No. 1; and
- (b) a sea-based bonded fuel goods special storage warehouse, means distillate fuel as defined in Additional Note 1(g)(ii) and (iii) of Chapter 27 of Part 1 of Schedule No. 1;

“foreign-going vessel” means—

- (a) a vessel at a port, harbour or other place in the Republic if that vessel—
 - (i) has arrived at that port, harbour or other place in the course of a voyage from outside the Republic to a destination or destinations inside the Republic, whether that port, harbour or other place is that destination or one of those destinations or a stopover on its way to that or any of those destinations; or
 - (ii) is scheduled to depart from that port, harbour or other place in the course of a voyage to a destination outside the Republic, whether that port, harbour or other place is its place of departure to that destination or a stopover or one of several stopovers in the Republic from where it departs in the course of that voyage;
- (b) a vessel in the territorial waters of the Republic on a voyage referred to in paragraph (a)(i) or (ii); or
- (c) a vessel on a voyage from a place outside the Republic to a destination outside the Republic—

- (i) passing through the territorial waters of the Republic; or
- (ii) making a stopover at any place in the Republic;

“bonded fuel goods special storage warehouse” means a special customs and excise storage warehouse contemplated in section 21(1) for the storage of bonded fuel goods and includes –

- (a) a land-based bonded fuel goods special storage warehouse; and
- (b) a sea-based bonded fuel goods special storage warehouse;

“harbour” means a port in terms of section 1 of the National Ports Act 2005 (Act No. 5 of 2005);

“land-based bonded fuel goods special storage warehouse” means a bonded fuel goods special customs and excise storage warehouse situated on land, as contemplated in Part 2 of these rules;

“licensed marine remover” means a licensed marine remover as defined in rule 64DA.01;

“own transport” in relation to the licensee of a land-based bonded fuel goods special storage warehouse, means to transport bonded fuel goods from such warehouse on land by means of a vehicle –

- (a) owned by the licensee, including a vehicle –
 - (i) in possession of that licensee in terms of a hire purchase or lease agreement; or
 - (ii) rented by that licensee for the purpose of such transport; and
- (b) operated by a person under the direct instructions of the licensee;

“petrol” means fuel as defined in Additional Note 1(b) to Chapter 27 in Part 1 of Schedule No. 1 to the Act;

“residual fuel” means fuel oils as defined in Additional Note 1(h) to Chapter 27 in Part 1 of Schedule No. 1 to the Act;

“sea-based bonded fuel goods special storage warehouse” means a bonded fuel goods special customs and excise storage warehouse, consisting of a storage vessel on sea, as contemplated in Part 3 of these rules;

“storage vessel” means a vessel which is used as a warehouse for the receipt, storage and transfer of bulk imported distillate fuel or residual fuel for purposes of bunkering; and

“these rules” means the rules numbered 21.05A.

Licensing of bonded fuel goods special storage warehouses

21.05A.02 (a) No person may operate a bonded fuel goods special storage warehouse unless such warehouse is licensed in accordance with paragraph (b).

(b) Any person who intends operating a bonded fuel goods special storage warehouse must –

(i) apply for a licence in accordance with rule 60.01A(c)(i) and comply with all the requirements specified on the electronic application or form DA 185 and the relevant annexure; and

(ii) before a licence is issued, furnish such security the Commissioner may require, and if security is furnished in the form of a bond, such bond –

(aa) is subject to the provisions of rules 120.08 and 120.09; and

(bb) must be in the form determined by the Commissioner.

(c) The provisions of section 60(2) and the rules under that section apply with the necessary changes to any refusal of an application for a licence or the renewal, cancellation or suspension of the licence issued in respect of a bonded fuel goods special storage warehouse.

Customs treatment of on-sea transfers and receipts of imported fuels

21.05A.03 (a) For purposes of this rule –

“on-sea transfer”, in relation to imported fuel, means the action of transferring within the territorial waters of the Republic, imported distillate fuel, residual fuel or petrol from the foreign-going vessel on which it was brought into the Republic, to another vessel; and

“on-sea receipt”, in relation to imported fuel, means the action of receiving within the territorial waters of the Republic, distillate or residual fuel onto a foreign-going vessel on which it will leave the Republic, from another vessel.

(b) Any on-sea transfer must take place either –

(i) directly to a sea-based bonded fuel goods special storage warehouse, in the case of distillate or residual fuel; or

(ii) to a vessel operated by a licensed marine remover for purposes of removal to –

(aa) a sea-based bonded fuel goods special storage warehouse, in the case of distillate or residual fuel; or

(bb) a land-based bonded fuel goods special storage warehouse, in the case of distillate fuel, residual fuel or petrol.

(c) Any on sea-receipt must take place either –

(i) directly from a vessel that is a sea-based bonded fuel goods special storage warehouse; or

(ii) from a vessel operated by a licensed marine remover.

(d) An on-sea transfer or an on-sea receipt contemplated in paragraph (b) or (c) respectively,

may only take place upon due entry of the imported fuel for warehousing or for export, depending on the circumstances.

(e) No distillate fuel, residual fuel or petrol brought into the Republic on board a foreign-going vessel may be transferred within the territorial waters of the Republic from such foreign-going vessel directly to another foreign-going vessel leaving the Republic, or to a coasting vessel.

Procedure to be followed to obtain permissions from Commissioner contemplated in rule 21.05A.10 or 21.05A.12

21.05A.04 (a) For purposes of obtaining a permission contemplated in rule 21.05A.10(a) or 21.05A.12(a), the relevant licensee must submit a request for permission on its official letterhead or that of its duly authorised representative to the e-mail address indicated on the SARS website for receipt of such requests.

(b) A request referred to in paragraph (a) must reflect the following information in relation to the person requesting permission or the duly authorised representative of such person:

(i) The name and customs and excise client number of the person requesting permission;

(ii) if the request is submitted by a clearing agent on behalf of the licensee, the name and customs and excise client number of the clearing agent; or

(iii) if the request is submitted by another authorised representative, the name of the representative, and—

(aa) if the other representative is a natural person, such person's—

(A) SARS tax reference number or, if such person does not have a SARS

- tax reference number, the number and type of such person's identification document; and
- (B) contact details and any physical and postal addresses in the Republic; or
- (bb) if the other representative is a juristic entity—
- (A) its SARS tax reference number or, if it does not have a SARS tax reference number, its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country and, if another country, the name of that country;
- (B) its contact details and any physical and postal addresses in the Republic; and
- (C) the name and contact details of a contact person.

(c) The following information in relation to the request must be reflected:

- (i) The customs and excise client number of the warehouse if not provided under paragraph (b)(i);
- (ii) the relevant provision in terms of which permission is requested;
- (iii) full details relating to the grounds to be considered for purposes of the request;
- (iv) full details relating to the level of urgency of the request; and
- (v) any other information relevant to the request requested by the Commissioner.

- (d) A request must be supported by all relevant documents to substantiate information provided in the request, which must be submitted upon request.
- (e) A person who submitted a request in accordance with this rule is entitled to receive a receipt notification.
- (f) A request must be submitted no less than 5 working days prior to the date when the permission is required to be in place: Provided that in the case of circumstances contemplated in rule 21.05A.11(b) which constitute an emergency, a request may be submitted when the emergency situation arises.

Part 2: Land-based bonded fuel goods special storage warehouses

Licensing requirements for land-based bonded fuel goods special storage warehouses

- 21.05A.05** (a) The licensed premises of a land-based bonded fuel goods special storage warehouse includes the storage infrastructure at the demarcated geographical site as well as any pipeline infrastructure on that demarcated site extending up to the location of the inlet and outlet flanges leading into and out of the demarcated site respectively.
- (b) Flow meters and gauges must be installed to accurately monitor the volume of bonded fuel goods received in, stored in and removed from the licensed premises at any given time.
 - (c) Bonded fuel goods may only be received into a land-based bonded fuel goods special storage warehouse upon due entry for storage in such warehouse.
 - (d) Distillate fuel, residual fuel and petrol must be stored separately in the warehouse in tanks marked to indicate the type of goods.
 - (e) The same demarcated premises may not be used for the licensing of a land-based bonded fuel goods special

storage warehouse and a customs and excise manufacturing warehouse.

Removal of bonded fuel goods from land-based bonded fuel goods special storage warehouses

21.05A.06 (a) No bonded fuel goods may be removed from a land-based bonded fuel goods special storage warehouse, unless duly entered by the importer or, in circumstances where transfer of ownership has taken place in accordance with section 26, the new owner of the goods, for purposes of –

- (i) home consumption and upon payment of duty due thereon;
- (ii) export (including supply as ship stores for foreign-going vessels); or
- (iii) removal to a BELN country under the export procedure, after entry for home use and upon payment of duty.

(b) Only a licenced remover in bond as contemplated in section 64D, or the licensee of the land-based bonded fuel goods special storage warehouse using own transport, may remove bonded fuel goods by road–

- (i) for export;
- (ii) for removal to a BELN country;
- (iii) to a rail tanker, a vessel or an aircraft for removal for export;
- (iv) to a coasting vessel for own use; or
- (v) to a vessel operated by a licensed marine remover for onward removal –
 - (aa) to a coasting vessel; or
 - (bb) to a foreign-going vessel for export.

(c) Only a licensed marine remover may remove imported

bonded fuel goods from a land-based bonded fuel goods special storage warehouse by sea for onward removal for export on a foreign-going vessel.

(d) Bonded fuel goods may only be removed from a land-based bonded fuel goods special storage warehouse to any BELN country under the export procedure, after entry for home use and payment of duty.

(e) Removal from a land-based bonded fuel goods special storage warehouse for re-warehousing is not permissible.

Goods and activities in land-based bonded fuel goods special storage warehouses

21.05A.07 (a) Only bonded fuel goods may be stored in a land-based bonded fuel goods special storage warehouse for a period of six-months, which period may, on application by the importer before the expiry of that period, be extended for no more than three months.

(b) No blending or manufacturing of bonded fuel goods may take place in a land-based bonded fuel goods special storage warehouse.

(c) Bonded fuel goods in a land-based bonded fuel goods special storage warehouse may be combined with equivalent bonded fuel goods of the same class or kind to obtain a mixture of consistently acceptable quality and the following agents, which may not increase the volume of the goods, may be added:

(i) A lubricity agent;

(ii) a distinguishing agent for identification of ownership;

(iii) a cold flow agent; or

(iv) a stabilising agent.

(d) Any agent referred to in paragraph (c) may despite

paragraph (a) be kept in the warehouse.

Keeping of books, accounts and documents

21.05A.08 (a) The licensee of a land-based bonded fuel goods special storage warehouse must, at the warehouse in a safe place accessible to the Controller, keep or provide access to a record in a form approved by the Controller of all receipts into and deliveries or removals from the warehouse of bonded fuel goods, with such particulars as will make it possible for all such receipts and deliveries or removals to be readily identified with the bonded fuel goods warehoused, and with clear references to the bills of entry passed in connection therewith.

(b) For the purposes of section 101 and notwithstanding anything to the contrary in any rule, every licensee of a bonded fuel goods special storage warehouse must, as required in terms of rule 60.08(2) –

(i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the storage of bonded fuel goods and any agent received and used as contemplated in rule 21.05A.07(c), for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;

(ii) include in such books, accounts, documents and data any requirements prescribed in any provision of the Act in respect of the activity for which the licence is issued; and

(iii) produce such books, accounts, documents and

data as the Commissioner may require and submit such particulars in connection with the transactions and activities relating to the licensed premises –
(aa) on demand at any reasonable time; or
(bb) at intervals as may be determined by the Commissioner.

- (c) Books, accounts, documents and data contemplated in paragraph (b) include all relevant –
- (i) ITAC permits in relation to bonded fuel goods imported or exported;
 - (ii) South African Maritime Safety Authority or Transnet authorisations or permissions, as may be applicable, and any supporting documents relating thereto;
 - (iii) copies of form DA 1 (Report inward/outward for ships) in relation to the foreign-going vessel importing the bonded fuel goods destined for warehousing;
 - (iv) copies of form DA 3 (Certificate of Clearance for ships for a destination outside the Republic) in relation to the foreign-going vessel to whom the bonded fuel goods is supplied for export;
 - (v) bills of entry depending on the purpose of entry for imported bonded fuel goods received in the warehouse, delivered to foreign going vessels for export or for bonded fuel goods consumed domestically);
 - (vi) customs worksheets;
 - (vii) clearing and forwarding instructions issued;
 - (viii) bills of lading in relation to the foreign-going vessel importing the bonded fuel goods destined for warehousing;
 - (ix) purchase orders in relation to the bonded fuel goods;

- (x) delivery instructions including instructions to licensed marine removers;
- (xi) agreements of sale in relation to buying or selling of bonded fuel goods;
- (xii) records of any samples taken before the transfer of bonded fuel goods –
 - (aa) from the foreign-going vessel importing the bonded fuel goods to the vessel operated by the licensed marine remover transporting the goods to the warehouse;
 - (bb) from the vessel operated by the licensed marine remover transporting the bonded fuel goods from the warehouse to the foreign-going vessel on which the goods are to be exported;
- (xiii) laboratory reports in relation to bonded fuel goods received into the warehouse;
- (xiv) supplier's invoices in relation to bonded fuel goods supplied to the warehouse;
- (xv) flow meter reports, surveyor's reports and forms P2.01 (dipping sheet);
- (xvi) discharge reports;
- (xvii) delivery notes indicating at least the volume, type of product, product grade, product specification, date and place of delivery and supplier name and details in respect of bonded fuel goods received;
- (xviii) an updated list of the name and customs and excise client number of all licensed marine removers as well as all vessels operated by such licensed marine removers contracted for purposes of the delivery of bonded fuel goods–
 - (aa) to the land-based bonded fuel goods special storage warehouse;
 - (bb) to foreign-going vessels for export; or

- (cc) to coasting vessels for use by such vessels;
 - (xix) charter agreements in respect of vessels referred to in subparagraph (xviii), if applicable;
 - (xx) the name and customs and excise client number of all licensed removers in bond contracted for purposes of the delivery of bonded fuel goods by road as contemplated in rule **21.05A.06(b)**;
 - (xxi) the results of any tests done in respect of the bonded fuel goods received in and removed from the warehouse; and
 - (xxii) any other relevant records or documents as may be specified by the Commissioner.
- (f) Separate records must be kept in relation to distillate fuel, residual fuel and petrol as well as any agents used in respect thereof as contemplated in rule **21.05A.07(c)**.
- (g) For purposes of any records kept in terms of this rule any quantity of fuel levy goods must be expressed in litres at 20°C, utilising the IP 60 (B) measurement tables, jointly published by the Institute of Petroleum and the American Society for Testing of Materials.

Part 3: Sea-based bonded fuel goods-special storage warehouses

Licensing requirements for sea-based bonded fuel goods special storage warehouses

- 21.05A.09** (a) Only storage vessels that are self-propelled and have been duly entered for customs purposes are eligible for licensing as sea-based bonded fuel goods special storage warehouses.
- (b) The licensed premises of a sea-based bonded fuel goods special storage warehouse includes the storage vessel and any storage facility that forms an integral part of the structure of that vessel.

- (c) Distillate fuel and residual fuel must be stored in separate marked tanks or storage facilities in the warehouse.
- (d) Flow meters and gauges must be installed to accurately monitor the volume of bonded fuel goods received in, stored in and removed from the warehouse at any given time.
- (e) A storage vessel operating as a sea-based bonded fuel goods special storage warehouse may only operate within the port limits of the port that it services, as described in Government Gazette No. 32873 of 22 January 2010, subject to rule **21.05A.10(a)**.
- (f) A licence for a sea-based bonded fuel goods special storage warehouse is issued in respect of a specific port subject to compliance with all relevant requirements relating to approvals, licences or certificates of whatever nature by the relevant regulatory and other bodies in relation to the importation and receiving, storage or supply of fuel for bunkering.
- (g) Bonded fuel goods may only be received into a sea-based bonded fuel goods special storage warehouse –
- (i) if the licensee is in possession of a copy of the advance vessel arrival notice referred to in rule 8.09(1)(b) or a form DA 1 submitted by the carrier operating the foreign-going vessel on board which the bonded fuel goods are brought into the Republic; and
- (ii) upon due entry for storage in such warehouse.
- (h) Only a licensed marine remover may remove bonded fuel goods from a sea-based bonded fuel goods special storage warehouse: Provided that transfers may be effected by using a floating marine pipe directly from the warehouse to a foreign-going vessel.
- (i) The same vessel may not be used for purposes of a sea-based bonded fuel goods special storage warehouse

storing bonded fuel goods, and as a vessel operated by a licensed marine remover.

- (j) A licensee must keep or provide access to records contemplated in rule 21.05A.15 at the land-based premises of that licensee used for purposes of the business for which the licence was issued and which is indicated on the electronic application or form DA 185.

Circumstances in which storage vessels operating as sea-based bonded fuel goods special storage warehouses may leave port limits

- 21.05A.10** (a) Despite rule 21.05A.09(e), the licensee of a sea-based bonded fuel goods special storage warehouse may, after obtaining prior permission from the Commissioner in a manner set out in rule 21.05A.04, leave the port limits of the port serviced by that warehouse in circumstances where that storage vessel requires maintenance or repairs that can only be done at a port other than that port.
- (b) A licensee who requested permission as contemplated in paragraph (a) must comply with any further direction or condition the Commissioner may issue in relation to the temporary absence and the return of the vessel, or in relation to the warehoused bonded fuel goods on the vessel.
- (c) Where in unforeseen circumstances it is essential for a licensee to take immediate action in accordance with any lawful evacuation instructions issued by another regulatory authority relating to an emergency situation arising in relation to the relevant port or port environment, such licensee may, despite the prior permission requirement in paragraph (a), act in accordance with such instructions and subsequently

notify the Commissioner of the position of the vessel and the reason for leaving the port limits.

(d) The provisions of rule 21A.05A.04 apply with the necessary changes in respect of a notification referred to in paragraph (c).

Removal of bonded fuel goods from sea-based bonded fuel goods special storage warehouses

21.05A.11 (a) Subject to rule 21.05A.12(a), bonded fuel goods in a sea-based bonded fuel goods special storage warehouse may only be removed from such a warehouse upon due entry by the importer for purposes of export (including supply as ship stores for use by foreign-going vessels).

(b) No bonded fuel goods may be removed from a sea-based bonded fuel goods special storage warehouse for re-warehousing, subject to rule 21.05A.12(c).

Permission to remove bonded fuel goods from sea-based bonded fuel goods special storage warehouses in other circumstances

21.05A.12 (a) Bonded fuel goods may not be removed from a sea-based special storage warehouse in circumstances other than those contemplated in rule 21.05A.11, unless prior permission of the Commissioner has been obtained in accordance with rule 21.05A.04.

(b) Permission referred to in paragraph (a) may be requested in the following exceptional circumstances:

(i) Where an accident or incident resulted in the contamination, destruction or diminution of warehoused goods;

(ii) where a breakdown, shipwreck or other unforeseen incident affects the safety or preservation of the warehoused goods;

- (iii) where the warehoused goods must be removed from the warehouse due to repairs to or maintenance of the vessel operating as the warehouse; or
- (iv) where an accident, incident or faulty or incorrect operation of the warehouse resulted in the loss of containment of the warehoused goods.
- (c) A licensee must comply with any conditions subject to which a permission is issued by the Commissioner.

Goods and activities in sea-based bonded fuel goods special storage warehouses

- 21.05A.13** (a) Only bonded fuel goods may be stored in a sea-based bonded fuel goods special storage warehouse for a period of six-months, which period may on application by the importer before the expiry of that period, be extended for no more than three months.
- (b) No blending or manufacturing of bonded fuel goods may take place in a sea-based bonded fuel goods special storage warehouse, but such goods may be combined with equivalent bonded fuel goods of the same class or kind to obtain a mixture of consistently acceptable quality and the following agents, which may not increase the volume of the goods, may be added:
- (i) A lubricity agent;
 - (ii) a distinguishing agent for identification of ownership;
 - (iii) a cold flow agent; or
 - (iv) a stabilising agent.
- (c) Bonded fuel goods to be used for purposes of the operation and maintenance of the warehouse –
- (i) may not be drawn from imported stock warehoused under suspension of duty; and

(ii) must be kept as duty paid goods separately from warehoused stock.

(d) Any agent referred to in paragraph (b) may despite paragraph (a) be kept in the warehouse.

Application of section 75(18)(d) in relation to imported distillate fuel entered for storage in sea-based bonded fuel goods special storage warehouses

21.05A.14 For purposes of the application of section 75(18)(d) to distillate fuel entered for storage in a sea-based bonded fuel goods special storage warehouse, “landed” means off-loading onto the relevant storage vessel situated within the port limits of the port it services as contemplated in rule **21.05A.09(e)**.

Keeping of books, accounts and documents

21.05A.15 (a) The licensee of a sea-based bonded fuel goods special storage warehouse must keep or provide access to a record in a form approved by the Controller of all receipts into and deliveries or removals from the warehouse of bonded fuel goods, with such particulars as will make it possible for all such receipts and deliveries or removals to be readily identified with the bonded fuel goods warehoused, and with clear references to the relative bills of entry passed in connection therewith.

(b) For the purposes of section 101 and notwithstanding anything to the contrary in any other rule, every licensee of a bonded fuel goods special storage warehouse must, as required in terms of rule 60.08(2) –

(i) keep proper books, accounts and documents and any data created by means of a computer, of all transactions relating to the storage of imported bonded fuel goods and any agent received and used

- as contemplated in rule 21.05A.13(b), for a period of five years calculated from the end of the calendar year in which any such document was created, lodged or required for the purposes of any customs and excise procedure;
- (ii) include in such books, accounts, documents and data any requirements prescribed in any provision of the Act in respect of the activity for which the licence is issued; and
- (iii) produce such books, accounts, documents and data as the Commissioner may require and render such returns or submit such particulars in connection with the transactions and activities relating to the licensed premises –
- (aa) on demand at any reasonable time; or
- (bb) at intervals as may be determined by the Commissioner.
- (c) Books, accounts, documents and data contemplated in paragraph (b) must include all relevant –
- (i) ITAC permits in relation to bonded fuel goods imported or exported;
- (ii) South African Maritime Safety Authority or Transnet authorisations or permissions, as may be applicable, and any supporting documents relating thereto;
- (iii) any documents relating to the customs entry of the storage vessel;
- (iv) any documents relating to the ownership, lease or charter of the storage vessel;
- (v) copies of form DA 1 (Report inward/outward for ships) in relation to the foreign-going vessel importing the bonded fuel goods destined for warehousing in the warehouse;

- (vi) copies of form DA 3 (Certificate of Clearance for ships for a destination outside the Republic) in relation to the foreign-going vessel to whom the bonded fuel goods are supplied for export;
- (vii) bills of entry depending on the purpose of entry for bonded fuel goods received in the warehouse and delivered to foreign going vessels;
- (viii) customs worksheets;
- (ix) clearing and forwarding instructions issued;
- (x) bills of lading in relation to the foreign-going vessel importing the bonded fuel goods destined for warehousing;
- (xi) purchase orders in relation to the bonded fuel goods;
- (xii) delivery instructions to licensed marine removers;
- (xiii) agreements of sale in relation to buying or selling of bonded fuel goods;
- (xiv) records of any samples taken before the transfer of bonded fuel goods –
 - (aa) from the foreign-going vessel importing the bonded fuel goods to the vessel operated by the licensed marine remover transporting the goods to the sea-based bonded fuel goods special storage warehouse;
 - (bb) from the foreign-going vessel importing the bonded fuel goods directly to the sea-based bonded fuel goods special storage warehouse; or
 - (cc) from the vessel operated by the licensed marine remover transporting the bonded fuel goods to the foreign-going vessel on which the goods are to be exported;
- (xv) laboratory reports in relation to bonded fuel goods received into the warehouse;

- (xvi) supplier's invoices in relation to bonded fuel goods supplied to the warehouse;
- (xvii) flow meter reports, surveyor's reports and forms P2.01 (dipping sheet);
- (xviii) discharge reports;
- (xix) delivery receipts in relation to completion of deliveries, signed and stamped by the master or the chief engineer of the warehouse indicating at least volume, type of product, product grade, product specifications, date and place of delivery and supplier name and details, of the bonded fuel goods in the case where –
- (aa) a licensed marine remover transported the bonded fuel goods from the importing foreign-going vessel to the warehouse; or
- (bb) the importing foreign-going vessel transferred the bonded fuel goods directly to the warehouse;
- (xx) delivery receipts in relation to completion of deliveries, signed and stamped by the master or the chief engineer of the receiving foreign-going vessel on which the bonded fuel goods are to be exported, indicating at least volume, type of product, product grade, product specifications and date and place of delivery and supplier name and details;
- (xxi) an updated list containing the details of all vessels operated by licensed marine removers contracted by the licensee for purposes of the delivery of imported bunker fuel –
- (aa) to the sea-based bonded fuel goods special storage warehouse; or
- (bb) to foreign-going vessels for export;

- (xxii) charter agreements in respect of vessels referred to in subparagraph (xxi), if applicable;
 - (xxiii) details of any requests for permission in terms of rule 21.05A.04, together with any supporting documents;
 - (xxiv) records of fuel entered and used for self-propulsion;
 - (xxv) the results of any tests done in respect of the bonded fuel goods received in and removed from the warehouse; and
 - (xxvi) any other relevant records or documents as may be specified by the Commissioner.
- (d) Separate records must be kept in relation to distillate fuel and residual fuel as well as any agents used in respect thereof as contemplated in rule 21.05A.13(b).
- (e) For purposes of any records kept in terms of this rule any quantity of fuel levy goods must be expressed in litres at 20°C, utilising the IP 60 (B) measurement tables, jointly published by the Institute of Petroleum and the American Society for Testing of Materials.”.

Amendment of rule 60.01A

2. Rule 60.01A is hereby amended –

- (a) by the insertion in paragraph (a)(ii) of the following item after item (cc):
“(ccA) operating as a marine remover of bonded fuel goods as contemplated in rule 64DA.02(c)(ii)(aa) or (bb), respectively;”;
- (b) by the insertion in paragraph (c)(i)(cc) of the following subitem after subitem (C):
“(D) bonded fuel goods as contemplated in rule 21.05A.02;” and
- (c) by the substitution in paragraph (c)(iii) for item (bb) of the following item:
“(bb) paragraphs (a)(ii)(ccA)[(dd)] to (gg) must be submitted in paper format as contemplated in paragraph (b)(ii).”.

Insertion of rules

3. The following heading and rules are hereby inserted before rule 64E.01:

“Rules numbered 64DA followed by further digits relate, unless the context otherwise indicates, to the licensing of marine removers of bonded fuel goods

Definitions

64DA.01 For purposes of these rules and any form to which these rules relate, unless otherwise specified or the context otherwise indicates –

“blending”, “bonded fuel goods”, “bonded fuel goods special storage warehouse”, “bunkering”, “coasting vessel”, “distillate fuel”, “foreign-going vessel”, “land-based bonded fuel goods special storage warehouse”, “petrol”, “residual fuel” and “sea-based bonded fuel goods special storage warehouse” respectively, has the meaning assigned to it in rule 21.05A.01;

“licensed marine remover” in relation to a movement of bonded fuel goods to or from a bonded fuel goods special storage warehouse, means a marine remover licensed in terms of rule 64DA.02(c);

“these rules” means the rules numbered 64DA.

Licensing of marine removers

64DA.02 (a) The following movements of bonded fuel goods on sea must be performed by a licensed marine remover:

- (i) A movement from a foreign-going vessel to a sea-based bonded fuel goods special storage warehouse for warehousing in such warehouse, or from such warehouse to a foreign-going vessel for export on such vessel; and

(ii) a movement from a foreign-going vessel to a land-based bonded fuel goods special storage warehouse for warehousing in such warehouse, or from such warehouse to a foreign-going vessel for export on such vessel or to a coasting vessel for use by such vessel.

(b) Paragraph (a) does not apply where the transfer occurs –

(i) by floating marine pipe directly between a foreign-going vessel and a sea-based bonded fuel goods special storage warehouse, or from such warehouse to a foreign going vessel; or

(ii) by pipeline from a foreign-going vessel to a land-based bonded fuel goods special storage warehouse, or from such warehouse to a foreign-going vessel.

(c) Any person who intends to operate a vessel for purposes of a movement of bonded fuel goods as contemplated in paragraph (a), must –

(i) apply for a licence in accordance with rule 60.01A(c)(iii)(bb); and

(ii) comply with all the requirements specified on form DA 185 and the relevant annexure, indicating whether the application is in relation to –

(aa) a licensed marine remover of bonded fuel goods removing duty suspended bonded fuel goods to or from a bonded fuel goods special storage warehouse; or

(bb) a licensed marine remover of bonded fuel goods removing duty paid bonded fuel goods from a land-based bonded fuel goods special storage warehouse to a coasting vessel for use by such vessel, or to a foreign-going vessel for removal to a BELN country.

- (d) An applicant must, before a licence is issued, furnish any security the Commissioner may require, and if security is furnished in the form of a bond, such bond –
- (i) is subject to the provisions of rules 120.08 and 120.09; and
 - (ii) must be in the form determined by the Commissioner.
- (e) The provisions of section 60(2) and the rules under that section apply with the necessary changes to any refusal of an application for a licence or the renewal, cancellation or suspension of the licence issued in respect of a marine remover of bonded fuel goods.

Licensing requirements

- 64DA.03** (a) A licence contemplated in rule 64DA.02 is issued subject to compliance with all relevant requirements relating to approvals, licences or certificates of whatever nature by the relevant regulatory and other bodies in relation to bunkering operations.
- (b) A vessel operated by a licensed marine remover for purposes described in rule 64DA.02(a) –
- (i) may not be a foreign-going vessel and must have been duly entered for customs purposes;
 - (ii) may not be used as a storage facility for bonded fuel goods;
 - (iii) must be fitted with flow meters and gauges to accurately monitor the volume of bonded fuel goods received and delivered; and
 - (iv) must be made available for inspection by an officer at any reasonable time required.
- (c) A licensee must keep or provide access to records contemplated in rule **64DA.08** at the land-based premises of that licensee used for purposes of the

business for which the licence was issued and which is indicated on form DA 185.

Permissible activities in relation to licensed marine removers

- 64DA.04** (a) A licensed marine remover may operate a vessel only for purposes referred to in rule 64DA.02(a).
- (b) For purposes of paragraph (a), a licenced marine remover must be contracted exclusively for movements in respect of a specific –
- (i) sea-based bonded fuel goods special storage warehouse; or
- (ii) land-based bonded fuel goods special storage warehouse.
- (c) No blending or manufacturing of bonded fuel goods may take place on board a vessel operated by a licensed marine remover.
- (d) Distillate fuel, residual fuel and petrol must when transported on board a vessel operated by a licensed marine remover, be kept in separate marked tanks.
- (e) Duty suspended bonded fuel goods contemplated in rule **64DA.02(c)(ii)(aa)** may not be transported together with duty paid bonded fuel goods contemplated in rule **64DA.02(c)(ii)(bb)**.
- (f) Bonded fuel goods in the process of being transported may not remain on board a vessel operated by a licensed marine remover for a period longer than seven calendar days, which period may be extended on application to the Commissioner in accordance with rule **64DA.05** on good grounds shown.

Application for extension of transportation period

- 64DA.05** (a) A licenced marine remover requiring an extension of the transport period referred to in rule 64DA.04(f) must, before expiry of the seven day period, submit an application reflecting the information listed in paragraphs (b), (c) and (d), on its official letterhead or that of its duly authorised representative to the e-mail address indicated on the SARS website for receipt of such applications.
- (b) The following information must be provided in relation to the licensed marine remover or duly authorised representative:
- (i) The name and customs and excise client number of the licensed marine remover;
- (ii) if the notification is submitted by an authorised representative, the name of the representative, and—
- (aa) if the representative is a natural person, such person's —
- (A) SARS tax reference number or, if such person does not have a SARS tax reference number, the number and type of such person's identification document; and
- (B) contact details and any physical and postal addresses in the Republic; or
- (bb) if the representative is a juristic entity—
- (A) its SARS tax reference number or, if it does not have a SARS tax reference number, its registration number or the number of its founding document, indicating whether the entity is incorporated, registered or recognised in terms of the laws of the Republic or another country and, if another country, the name of that country;

(B) its contact details and any physical and postal addresses in the Republic;
and

(C) the name and contact details of a contact person;

(c) Full details relating to the relevant vessel operated by the licensed marine remover and the goods on board must be set out, namely –

(i) the name of the vessel;

(ii) the name of the master of the vessel;

(iii) a precise description of the goods on board, including details of the tanks, the relevant volumes of the different types of bonded fuel goods in such tanks and whether the goods are duty suspended or duty paid;

(iv) the destination of the vessel; and

(v) the customs and excise client number of the relevant bonded fuel goods special storage warehouse to which the licensed marine remover is contracted and on behalf of which the movement was undertaken.

(d) The reasons why an extension of the transportation period is required and the period of extension required must be set out.

(e) The application must be supported by all relevant documents to substantiate information provided in the application, which must be submitted on request.

(f) The licensed marine remover or authorised representative must give any additional information that the Commissioner may reasonably subsequently require.

(g) A person who submitted a notification in accordance with this rule is entitled to receive a receipt notification.

Commissioner to be notified of any accident, breakdown or other act or omission affecting the security of the bonded fuel goods on board

64DA.06 (a) A licensed marine remover must without delay notify the Commissioner in accordance with rule 64DA.07 of any of the following events occurring during the transportation of the relevant bonded fuel goods:

- (i) An accident or incident involving or resulting in the contamination, destruction or diminution of such goods;
- (ii) a breakdown of the vessel operated by the licensed marine remover or other unforeseen circumstances necessitating the transfer of such goods on to another vessel; or
- (iii) any other act or omission of whatever nature affecting in any manner the security of such goods.

(b) A licensed marine remover who notified the Commissioner as contemplated in paragraph (a) must comply with any directions issued by the Commissioner pursuant to such notification.

Procedure to be followed to notify Commissioner as contemplated in rules 64DA.06

64DA.07 (a) A licensed marine remover must submit a notification referred to in rule 64DA.06(a) on its official letterhead or that of its duly authorised representative, to the e-mail address indicated on the SARS website for receipt of such notifications.

(b) A notification referred to in paragraph (a) must reflect the information listed in rule 64DA.05(b) in relation to the licensed marine remover or duly authorised representative.

(c) The notification must set out full details of the event that occurred during the transportation.

including –

- (i) the details listed in rule **64DA.05(c)**;
 - (ii) a detailed description of the event that occurred;
 - (iii) whether any bonded fuel goods are contaminated, destroyed or diminished, need to be transferred to another vessel or are not secure; and
 - (vi) the Global Positioning System (GPS) location of the vessel.
- (d) The notification must be supported by all relevant documents to substantiate information provided in the notification, which must be submitted on request.
- (e) The licensed marine remover or authorised representative must give any additional information relevant to the event reported that the Commissioner may subsequently require.
- (f) A person who submitted a notification in accordance with this rule is entitled to receive a receipt notification.

Keeping of books, accounts and documents

64DA. 08 (a) A licensed marine remover must, at the land-based premises contemplated in rule **64DA.03(c)** keep or provide access to records in a form approved by the Controller, and –

- (i) maintain an up to date list of the vessels used for any movement of bonded fuel goods contemplated in rule **64DA.02(a)**, indicating the date of any deletion or addition, as well as the relevant sea-based or land-based bonded fuel goods special customs storage warehouse to which a particular vessel is contracted;
- (ii) for purposes of section 101 and as required in terms of rule 60.08(2) keep proper books, accounts,

documents and any data created by means of a computer, of all transactions relating to any movement of bonded fuel goods contemplated in rule **64DA.02(a)** for a period of five years calculated from the end of the calendar year in which any such document was created or lodged;

(iii) include in such books, accounts and documents any requirements prescribed in any provision of the Act in respect of the activity for which the licence is issued; and

(iv) produce such books, accounts, documents and data on demand at any reasonable time and submit such particulars in connection with the transactions relating to the removal of bonded fuel goods as the Commissioner may require.

(b) The books, accounts and documents referred to in subparagraph (a) must include all relevant –

(i) South African Maritime Safety Authority or Transnet authorisations or permissions, as may be applicable, and any supporting documents relating thereto;

(ii) documents relating to the customs entry of the vessel or vessels operated by the licensed marine remover;

(iii) documents relating to the ownership, lease or charter of the vessels or vessels operated by the licensed marine remover;

(iv) copies of form DA 1 (Report inward/outward for ships) in relation to the foreign-going vessel importing the bonded fuel goods destined for warehousing which are transported by the licensed marine remover to the bonded fuel goods special storage warehouse;

(v) copies of form DA 3 (Certificate of Clearance for ships for a destination outside the Republic) in relation to the foreign-going vessel to which the bonded fuel goods are transported for export;

- (vi) delivery instructions from the licensee of the relevant bonded fuel goods special storage warehouse;
- (vii) delivery receipts indicating at least volume, type of product, product grade and product specifications, date and place of delivery and supplier name and details, signed and stamped by the master or the chief engineer of the vessel operated by the licensed marine remover, in the case where bonded fuel goods are received for delivery on board such vessel;
- (viii) delivery receipts in relation to completion of deliveries, indicating at least volume, type of product, product grade and product specifications, date and place of delivery and supplier name and details, signed and stamped by the master or the chief engineer –
- (aa) of the receiving sea-based bonded fuel goods special storage warehouse, in the case where bonded fuel goods are removed from the importing foreign-going vessel to the relevant warehouse;
- (bb) of the receiving foreign-going vessel on which the bonded fuel goods are to be exported, in the case where warehoused bonded fuel goods are removed to the foreign-going vessel; or
- (cc) of the receiving coasting vessel, in the case where warehoused bonded fuel goods are removed to such vessel for use by such vessel;
- (ix) discharge reports;
- (x) records of any samples taken before the transfer of bonded fuel goods –
- (aa) from a foreign-going vessel importing the bonded fuel goods to the vessel operated by the licensed marine remover transporting the

- goods to a sea-based bonded fuel goods special storage warehouse; or
- (bb) from the vessel operated by the licensed marine remover transporting the bonded fuel goods to a foreign-going vessel on which the goods are to be exported, or to a coasting vessel for use by that vessel;
- (xi) voyage logbooks, including details relating to all movements of any vessel operated by the licensed marine remover;
- (xii) details of any applications in terms of rule **64DA.05** or notifications in terms of rule **64DA.07**;
- (xiii) the results of any tests done in respect of the bonded fuel goods transported, if applicable; and
- (xiv) any other relevant records or documents as may be specified by the Commissioner.
- (c) Separate records must be kept in relation to the movement of duty suspended and duty paid bonded fuel goods, differentiating between distillate fuel, residual fuel and petrol.”.

Amendment of forms

4. Item 202.00 of the Schedule to the rules is hereby amended by the substitution of the following forms:

“DA 185 Application form – Registration/Licensing of Customs and Excise Clients

DA 185.4B4 Licensing client type 4B4: Special storage warehouse”

Insertion of form

5. Item 202.00 of the Schedule to the rules is hereby amended by the insertion of the following form:

“DA 185.B17 Licensing client type 4B17: Marine remover of bonded fuel goods”.

DRAFT