

DEPARTMENT OF TRADE AND INDUSTRY

NOTICE 179 OF 2019

**INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICA**

**GUIDELINES, RULES AND CONDITIONS PERTAINING TO CAUSTIC SODA IMPORTED IN
TERMS OF REBATE ITEMS 306.15/2815.12/01.06 AND 306.15/2815.12/02.06 FOR THE
EXTRACTION OF COPPER AND NICKEL CLASSIFIABLE UNDER TARIFF SUBHEADINGS
2603.00 AND 2604.00, RESPECTIVELY**

Note: In terms of section 26 (4) of the International Trade Administration Act, 71 of 2002, the Commission may, *inter alia*, require an applicant to provide additional information in respect of the application. The conditions attached to and the information requested below reflects the minimum requirements, which ITAC would apply to evaluate an application under this rebate provision.

1. Applications for permits must be addressed to the International Trade Administration Commission (ITAC), Private Bag X 753, Pretoria or delivered by hand to the DTI Campus, (Block E), 77 Meintjies Street, Sunnyside, Pretoria, 0002.
2. Applications for permits must be submitted according to the requirements as set out in the attached application form. If the space provided in the application form is insufficient, please use the format of the application form to submit the requested information.
3. If all the information requested in the application form is not submitted, the application will be deemed deficient. The application will not be considered, and it will be returned to the applicant.
4. At least fourteen (14) working days should be allowed for the processing of applications and the issue of permits, provided that all necessary information which renders the application duly completed has been submitted to ITAC.
5. Each rebate permit issued defines the period during which the goods concerned can be cleared under the rebate item. The rebate permit will only be valid for a period of twelve (12) months, commencing from the date on which the permit is issued. The permit may be issued for a shorter period as requested by the applicant, or as decided upon by ITAC.
6. If an applicant intends to apply for a subsequent permit for which the period of validity should commence on the day after the expiry date of the permit issued in terms of paragraph 7, this must be clearly indicated in a new application. The application must be submitted to ITAC at least two weeks prior to the expiry date of the previous permit as permits cannot be issued with retrospective effect.
7. Rebate permits issued will be subject to the following conditions and reciprocities:
 - 7.1. The applicant must provide a formal letter on the applicant's business letter head confirming that the applicant complies with labour laws, regulations and agreements gazetted by the Minister of Labour.
 - 7.2. The applicant must submit a SARS PIN to enable ITAC to verify the Applicant's tax clearance status on the SARS Tax Clearance System. Should challenges exist in providing this information give detailed reason/s for the absence thereof. Thereafter, applicants will be requested to submit a valid tax clearance certificate.
 - 7.3. Applicant(s) must consult with the local manufacturers of caustic soda to confirm if they are able to supply a reasonable quality and quantity of caustic soda as required. The applicant can request the manufacturers to respond within 14 days of the request. Should the local manufactures of caustic soda not be able to supply the quantity requested, the applicant(s) must obtain a confirmation letter from the manufacturer stating that they are not able to supply and the reason thereof. Letters received from caustic soda manufacturers must be submitted with application form and should have a date, not older than 30 days from the date of application.

- 7.4. If the manufacturer unreasonably refuses to provide such a confirmation letter, ITAC will write a letter to the manufacturer informing them of the application and requesting them to confirm their production and production capacity. The manufacturer will then be allowed 7 days to respond to this letter. Should the manufacturer respond within the 7 day period, the information provided will be taken into account during the decision making process;
- 7.5. Should, after receipt of the manufacturers response, or in the absence of such response, information be available that reflects that the manufacturer is unable to supply the quantity of caustic soda required, ITAC will be able to issue a permit without, or despite, the required letter of confirmation by the manufacturer.
- 7.6. As a rebate provision is considered for the purpose of providing relief to domestic producers that may experience injurious import pressures against similar imported end products, the benefit of the rebate provision will be tied to conditions related to economic performance over time and may be reviewed after a specified period. Reciprocity commitments as set out in the application form must be addressed in each application submitted.
- 7.7. The applicant must commit, *inter alia*, to the creation of employment and provide in each permit the number of jobs it expects to create annually as a result of the rebate permit granted. The applicant must submit to ITAC an annual report on its job creation performance.
8. Rebate permits may not be transferred in any manner by the holder thereof to any other person, or be used to the benefit of any person, not named in the permits.
9. Permits in relation to these rebate provisions should be applied for and received before the goods concerned are shipped.
10. Any request for an amendment to a rebate permit must be forwarded to ITAC for consideration. Amendments will only be considered in the following instances:
 - a) Error by ITAC on permit;
 - b) Error by applicant regarding the product description or tariff subheading. This will only be processed if the request is accompanied by a confirmation from SARS in this regard.
11. Should any party misplace a permit, the applicant should submit an affidavit on a company letterhead endorsed by a Commissioner of Oath, stating that the permit was lost and the circumstances surrounding loss of such permit. ITAC may, on the facts furnished, exercise its discretion to issue a new permit that replaces the lost permit. Should the lost permit be found the applicant must return such permit to ITAC.
12. Extension of the validity period from which the permit is valid may be granted. Extensions will only be granted where the relevant permit has not expired, and in the view of ITAC, good cause warrants extension of such permit. Such discretion shall lie solely with ITAC. Extensions will only be permitted for a period up to 3 months and the party applying for the extension must submit a letter and supporting documents to ITAC, furnishing reasons and good cause for the extension.
13. If it is suspected that any condition of this permit is not being adequately complied with, the permit holder will upon detection of such contravention be issued with a compliance notice to show good cause and submit evidence within seven (7) days of receipt thereof, why ITAC should not make any adverse finding/s on the prima facie evidence of non-compliance with the above conditions. Thereafter the matter will be considered by ITAC and if ITAC determines that a contravention of any of these permit conditions have occurred, this permit may be varied, amended or revoked/rescinded.

Should non-compliance with any applicable legislation governing the issue of this permit be detected by ITAC, at any time, ITAC will take such non-compliance by a permit holder or related party who facilitates such conduct into account, in considering whether to revoke/rescind this permit. In terms of section 54(1)(b) of the International Trade Administration Act, Act 71 of 2002, it is an offence to fail to comply with a condition stated in this permit and any person found guilty of such an offence is liable to a fine not exceeding R500 000,00 or to imprisonment for a period not exceeding ten years or to both such fine and imprisonment.

By accepting this permit, the person/entity and its Directors and persons exercising management control over it, to which this permit is issued, irrevocably binds himself/herself/itself/ jointly and severally, to the conditions contained herein as well as any legislative requirements and/or obligations contained in the relevant guidelines, rules and conditions associated with the rebate items concerned.