

EXCISE

EXTERNAL STANDARD

THE STORAGE AND/OR USE OF UNMARKED SPECIFIED ALIPHATIC HYDROCARBON SOLVENTS

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1 SUMMARY OF MAIN POINTS

- a) This document applies to entities that acquire or sell unmarked Specified Aliphatic Hydrocarbon Solvents (AHS).

2 STANDARD

- a) Section 37A makes provision for marked goods (including marked illuminating kerosene) and certain goods that are free of duty.
- b) Section 37A(9)(a), requires that persons need to **register** with SARS should they acquire, sell or dispose of, or be in possession of, or have under their control any unmarked goods (including unmarked illuminating kerosene) or use –
- i) Any goods other than marked goods for which provision is made free of duty in Schedule 1 as contemplated in subsection (1)(a) of Section 37A; or
 - ii) Any marked goods mixed with any lubricity agent.
- c) Specified AHS may be entered under the following Rebate Items in such quantities, for such purposes and under such conditions as the Commissioner may allow by specific permit.

2.1 Keeping of records

- a) The permit holder must keep books and records detailing stock movements of the unmarked specified AHS and the use(s) to which stock has been applied.
- b) The licensee (VM) or registrant must keep records of:
- i) Such invoice/stock requisition or delivery note for unmarked specified AHS supplied to any registered solvent user; and
 - ii) Such invoice/stock requisition or delivery note issued in respect of any unmarked specified AHS acquired (received) from any such licensee or other registered supplier.
- c) A licensee may keep electronic records provided that they can be readily converted into hard (paper) copies and made available to the SARS when required/requested.
- d) For purposes of this Act, the retention period for all Excise related documents (prescribed Customs and Excise documents as well as relevant trader's commercial and financial records) is five (5) years, subject to the provisions of Rule 60.08(2)(a)(i).

2.2 Penalties

- a) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
- b) Offences may render the client liable to the following, as provided for in the Act:
- i) Monetary penalties;
 - ii) Criminal prosecution; and/or
 - iii) Suspension or cancellation of registration, license or accreditation.

2.3 Appeal against decisions

- a) In cases where clients are not satisfied with any decision taken in terms of the Act they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document SC-CC-24.
- b) Should clients be unhappy with a decision of any appeal committee their recourse will be to lodge an application for Alternative Dispute Resolution (ADR) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.

- c) Should clients wish to appeal any decisions in terms of Value Added Tax (VAT) penalties, they are directed to the provisions of Sections 215 to 220 of the Tax Administration Act No. 28 of 2011 for the percentage based penalty and Section 224 of the Tax Administration Act No. 28 of 2011 for the understatement penalty. In this regard, please consult the SARS website or nearest SARS Branch Office.

2.4 Specified Aliphatic Hydrocarbon Solvents

- a) The specifications for specified aliphatic hydrocarbon solvents are defined in Schedule No. 1: Part 1: Chapter 27: Additional Notes 1(ij) and are as follows:
- b) **“Specified aliphatic hydrocarbon solvents”**, being products intended for use, advertised for use, put up for use or otherwise marketed or disposed of for use as solvents or for other general uses.
- i) **Distillation:**
- A) Initial boiling point exceeding 206°C; and
- B) Final boiling point not exceeding 290°C.
- c) Unmarked specified aliphatic hydrocarbon solvents not sold to and used by registered permit holders; Excise duty, Fuel levy, Road Accident Fund (RAF) levy and VAT becomes payable.
- d) Specified aliphatic hydrocarbon solvents are products that closely resemble the technical specifications of illuminating kerosene.
- e) As with illuminating kerosene specified aliphatic hydrocarbon solvents are capable of being used as an extender of diesel (**Distillate fuel**).
- a) Illuminating Kerosene is normally marked with an invisible marker **to prevent the illicit mixing with diesel. Should it be mixed with diesel, the presence of marker will be detected, when the diesel is tested.**
- f) Specified aliphatic hydrocarbon solvents are on occasion also marked.
- g) Certain consumers require **specified AHS** that are not marked. This is because the marker may, for example, in the short or long term, cause undesired side effects in inks, paints, or other products of which the specified AHS may be part.
- h) Many specified AHS are priced far higher than **diesel**. These products are not likely to be used as **diesel** extenders, as this would not be economically viable.
- i) However, some unmarked specified AHS have price levels lower than diesel fuel and the extending of **diesel** with these products may be economically viable.
- j) The introduction of unmarked specified AHS into **diesel** means less duty / levy paid on the final volume, resulting in a loss to the fiscus.
- k) These risks require procedures to be put in place to control the illicit use of unmarked specified AHS in this manner.

2.4.1 Registration

- a) **Any person who acquires and uses or sells unmarked specified aliphatic hydrocarbon solvents are required to register.**
- b) The applicant must complete the application form (Refer to **SE-FL-15-A01**) and submit it to the Controller/Branch Manager **Excise**.
- c) A separate application should be submitted for each location **where** unmarked specified AHS are **handled**.

- d) Copies of the following documents must be submitted with each application:
- i) I.D or Company/CC registration certificate; and
 - ii) Plan of the premises into which unmarked Specified aliphatic hydrocarbon solvents are to be supplied and are to be used or sold, indicating the storage facilities.

2.5 Unmarked Specified AHS

- a) Specified AHS **which are marked**, or are used in terms of a permit, are not subject to Excise Duty, Fuel Levy and RAF levy.
- b) However, **unmarked** specified AHS not used in terms of a permit are subject to Excise Duty, Fuel Levy, RAF levy, and VAT.
- c) **In order to ensure that the required and prescribed compliance conditions are adhered to, periodic audits/inspections of both suppliers and users of unmarked specified AHS are required.**

2.6 Supply and consumer process

2.6.1 Supplier

- a) The supplier must be a licensed Customs and Excise manufacturing warehouse (VM) licensed for the manufacture and supply of fuel levy goods as contemplated in Rule 19A4.01(b)(i) or a "Permit Holder" permitted to sell to or supply other "Permit Holders".
- b) The VM or Permit Holder may only supply customers in possession of a current valid permit.
- c) The VM or Permit Holder must supply the goods on an invoice which, in addition to the general required detail in Rule 19A.04(a), must state that the unmarked specified aliphatic hydrocarbon solvents have been supplied under rebate, detailing the rebate item under which they supplied and detailing the (currently valid) permit number relating to the purchaser.
- d) The supplier must ensure to charge Value Added tax (VAT).

2.6.2 Permit holder

- a) Specified AHS, as defined in additional Note 1(ij) to Chapter 27, may be entered under the following Rebate Items in such quantities, for such purposes and under such conditions as the Commissioner may allow by specific permit –
 - i) Schedule 4: Item 496.00.01...Full fuel levy.
 - ii) Schedule 6: Item 623.11.02...Full duty.
 - iii) Schedule 6: Item 671.01.01...Full fuel levy and Road Accident Fund levy.
- b) Conditions of a permit:
 - i) This permit is valid with effect from date of application to 31 March of the following year.
 - ii) The unmarked Specified aliphatic hydrocarbon solvents may not be used in the manufacture of any fuel or as fuel in any engine.
 - iii) The unmarked Specified aliphatic hydrocarbon solvents may not be sold other than to another permit holder unless duties are brought to account.
 - iv) The volume of unmarked Specified aliphatic hydrocarbon solvents supplied to the permit holders is limited to an annual limit as indicated on the permit.
 - v) The permit must be kept in a safe place and is to be produced **when demanded** by a SARS officer.
 - vi) Documentation is to be kept in terms of Section 101A (and rules thereto), and Rule 37A.13(b).
 - vii) Should the Customs and Excise Act be contravened, this permit will be withdrawn permanently with immediate effect.

- c) Once the application has been approved, the Controller/Branch Manager or Operations Manager (OPS Manager) will issue a permit allowing the applicant to **acquire, use or sell** unmarked Specified AHS under rebate of duty in terms of Item 496.00.01/623.11.02/671.01.01 (whichever is applicable)

3 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Sections 37A (1), 37(A)(9)(a) Customs and Excise Rules: Rules 19A.02(b)(ii), 37A
Other Legislation:	None
International Instruments:	None

3.2 Cross References

- a) N/A

3.3 Quality Records

Number	Title
SE-FL-15-A01	Application to acquire and use or sell unmarked specified aliphatic hydrocarbon solvents

4 DEFINITIONS AND ACRONYMS

Act	Customs and Excise Act No. 91 of 1964
AHS	Aliphatic Hydrocarbon Solvents
Commissioner	Commissioner for SARS
CC	Close Corporation
I.D	Identity
RAF	Road Accident Fund
SARS	South African Revenue Service
Unmarked specified aliphatic hydrocarbon solvents	Specified aliphatic hydrocarbon solvents does not have marker in it
VAT	Value added tax
VM	Licensed Customs and Excise Warehouse (VM)

5 DOCUMENT MANAGEMENT

Standard Owner	Executive: Process Solutions Customs & Support Services
Detail of change from previous revision	Complete review; The previous document which was a guide (SE-FL-16-G01) has been changed to an External Standard (SE-FL-16); and The reference number for the application form, SE-FL-15-S1-FR1, has been changed to SE-FL-15-A01.
Template number and revision	ECS-TM-03 - Rev 8