

Department of Energy



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PETROLEUM AND PETROLEUM PRODUCTS REGULATION BRANCH

PRESENTER: TEBOHO SETHOSA

REGULATIONS AND ADMINISTRATION OF
PETROLEUM LICENSING

21 NOVEMBER 2013



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PRESENTATION OVERVIEW

- DoE Mission Statement
- DoE Vision
- DoE Approved Organisational Structure
- The Controller of Petroleum Products' Structure
- Functions of the Petroleum Licensing Directorate



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PRESENTATION OVERVIEW

- Considerations to Enter the Industry
- How to Apply for a License
- Functions of DoE Regional Office
- Lodging of License types
- Publication Process
- Evaluation Process of a License Application
- Documents to be submitted upon Approval
- Temporary Retail License
- Amendments of Licenses
- Annual Compliance Process



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DoE MISSION STATEMENT

To regulate and transform the sector for the provision of secure, sustainable and affordable energy.



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DoE VISION

Vision 2014

A transformed and sustainable energy sector with universal access to modern energy carriers for all by 2014

Vision 2025

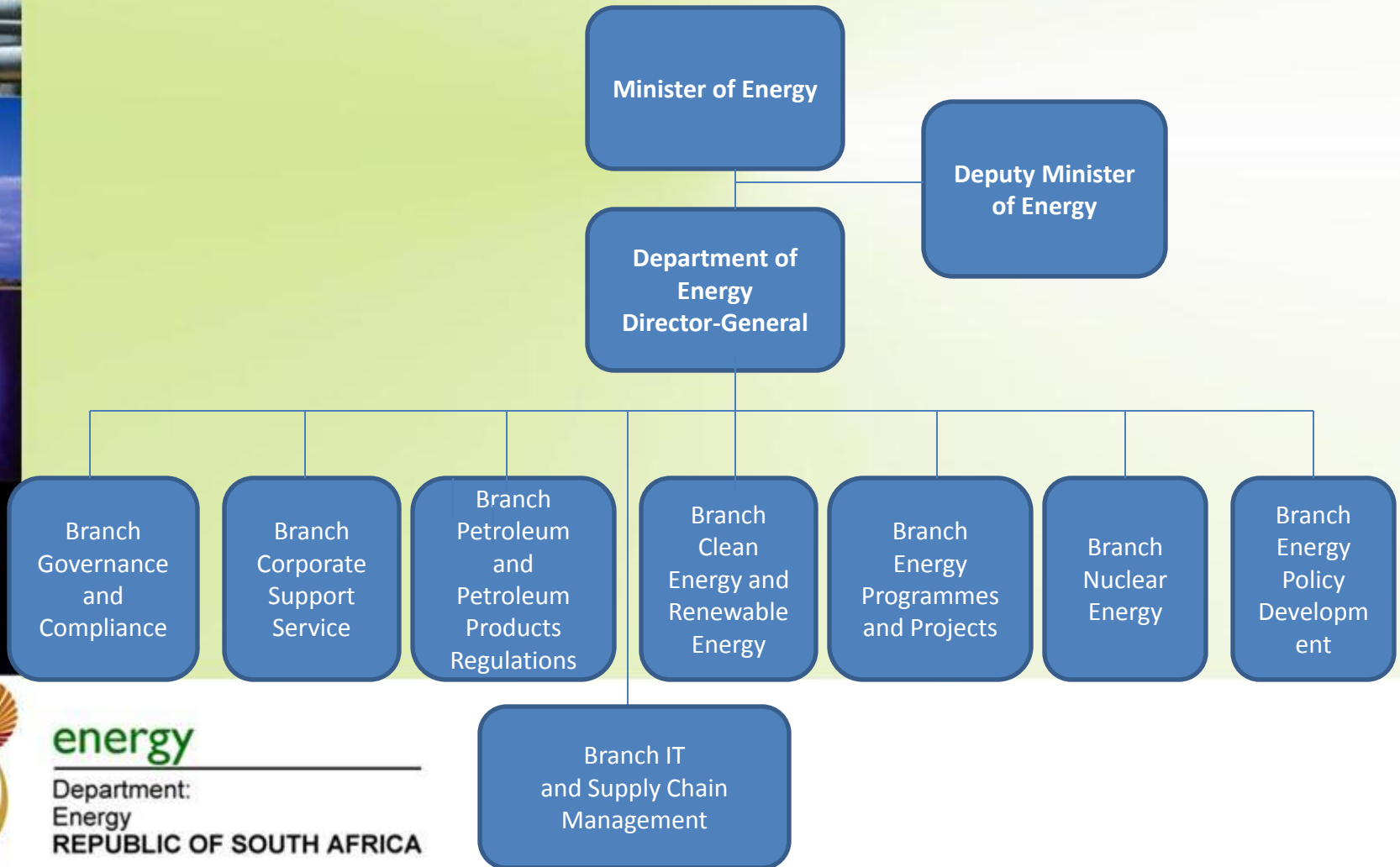
Improve our energy mix by having 30% of clean energy by 2025



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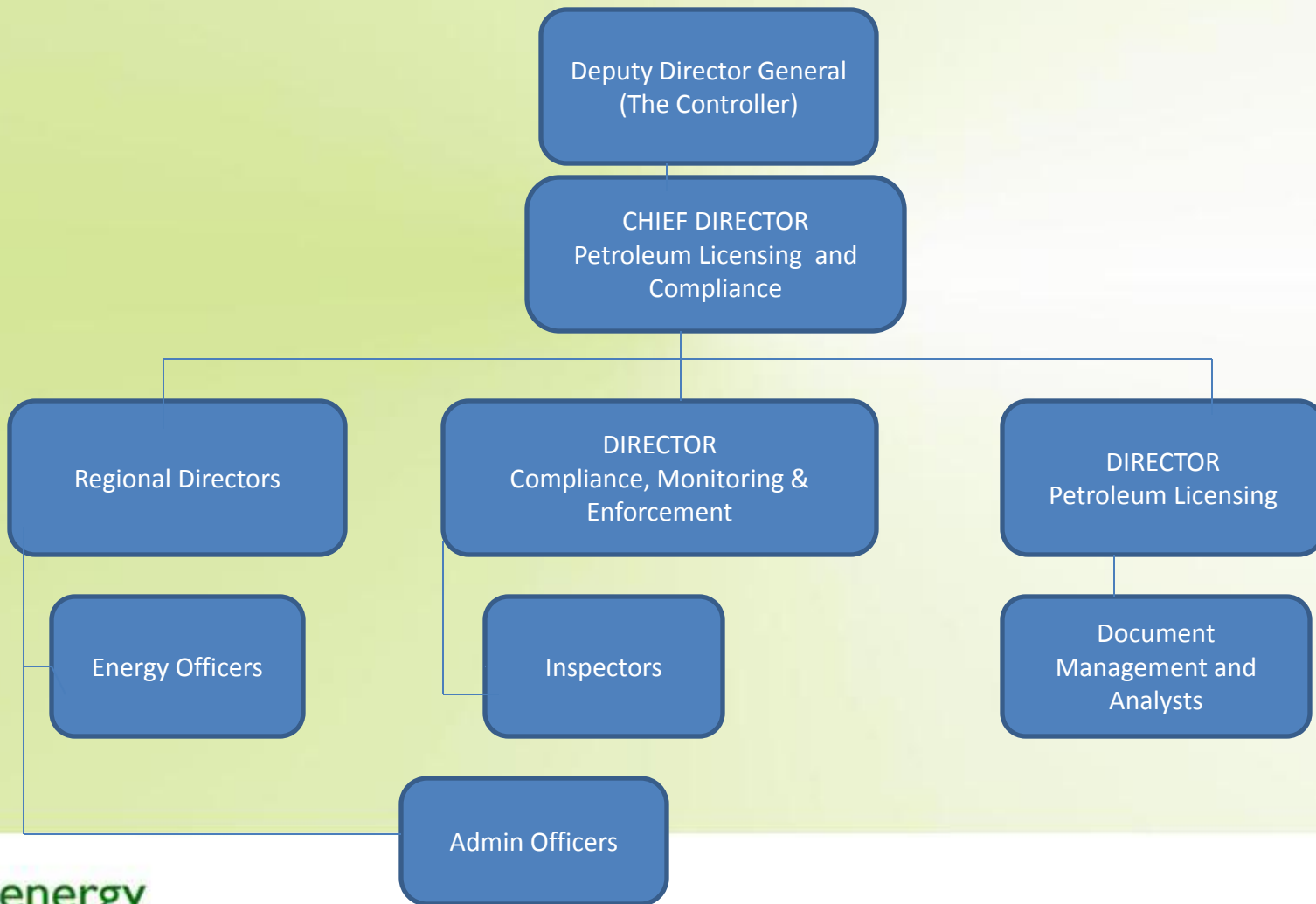
DoE Approved Organizational Structure



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The Controller of Petroleum Products



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Functions of the Petroleum Licensing Directorate

- Stakeholder engagement and render services on petroleum licensing processes.
- Facilitating the development of small businesses in the petroleum and liquid fuels industry by rendering advice on the formulation of bankable business plans in compliance with licensing objectives.



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Functions of the Petroleum Licensing Directorate

➤ Procession of annual information submissions of the licensed manufacturing, wholesaling and retailing activities received by February each year in compliance with regulations 18;17 and 26 for license category.

➤ Publishing information as stipulated by Regulations 29;28 and 39 for manufacturing, wholesale, site and retail license category.



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Functions of the Petroleum Licensing Directorate

- Managing the adjudication of the manufacturing, wholesale and retail of petroleum products licenses as prescribed by the Petroleum Products Act.
- Monitoring the Petroleum and Liquid Fuels Charter compliance by industry.



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Consideration To Enter The Industry

- **Petroleum Sector Segmentation**
- Upstream- Exploration
- Midstream- Refineries
- Downstream- Wholesale and Retail



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Consideration To Enter The Industry

- Identify Suitable Business Site
- Identify Existing Competition

- **Define Target Market**
 - Residential
 - Transient Traffic
 - Street and Road Type



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Consideration To Enter The Industry

- Comply with Environment Regulations
- >80 000 L Exemption for all Petrol Grades Tanks' Capacity
- Letter of Authorization from Department of Economic Development , Environment and Tourism.



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Consideration To Enter The Industry

The Applicant must source own finance

No Financial Assistance is available from DoE

GOVERNMENT FUNDING INSTITUTIONS

- National Empowerment Fund
- IDC
- Khula
- Business Partners



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Consideration To Enter The Industry

- Negotiate a Franchise Agreement
- Negotiate a Supply Agreement

The Franchise and Supply Agreements must not contravene the Petroleum Products Amendment Act 58,2003



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HOW TO APPLY FOR A LICENSE

Regulations stipulating documents to be completed and attached are available at our nine regional offices and on www.energy.gov.za (Click on Acts & Regulations, then Petroleum Link).



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HOW TO APPLY FOR A LICENSE

Additional information over and above the minimum standard requirements per application form to be attached are:

Loan agreement (if no loan agreement is in place a declaration to that effect, stating how much money was used and the source of the money for an example R2 000 000, from own capital/retirement fund used).



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HOW TO APPLY FOR A LICENSE

- Franchise agreement (if the franchise agreement has not yet been signed, a letter of appointment as franchisee from the respective oil company or if the Retail is not franchised, a declaration to that effect).
- A Close Corporation application; Certified copy of Certificate of Incorporation and certified copies of all members' identity documents must be lodged with .
- A sole trader/individual application; a certified copy of an identity document must be lodged with.



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HOW TO APPLY FOR A LICENSE

- For a trust application; a trust deed, letter of authority and certified copies of identity documents for the trustees and beneficiaries of the trust.
- Please note that should the beneficiary of the trust be another trust, the same document as above would be required of that trust with an exclusive purpose of identifying natural persons conducting the business.



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HOW TO APPLY FOR A LICENSE

- For an entity being a private or public company; the Certificate of Incorporation, shareholders agreement, share register, share certificates, memorandum and articles of associations and certified copies of all shareholders' identity documents.
- Please note that should one of the shareholders on the share certificate be a CC, a company or a trust, the above-mentioned documents must be attached for that CC, company or trust, in order to identify natural persons behind the business to determine the Charter HDSA percentile score.



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HOW TO APPLY FOR A LICENSE

- For an existing sites acquisition; minimum of previous two years volumes pumped at the site would be essential to support the new application.
- For an existing site acquisition; it is obligatory to lodge a declaration to surrender the original licensed certificate issued to the previous owner to authenticate the new transaction.



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HOW TO APPLY FOR A LICENSE

- Present traffic count and all Relevant data and assumptions used in the NPV calculation.
- Present number of employees employed/expected to be employed and categorized in gender, race and Forecourt, Admin and Shop services .
- Present a bankable business plan aligned to licensing objectives.



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Functions of A Regional Office

- Acknowledge receipt of an Application documents and Capture same on Petroleum Processing Application License System (PPALS)
- Issue a Receipt with reference number to the Applicant
- Issue A Notice of Publication Template to the Applicant



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Lodging Of A Site License Application

- An applicant for a site license must complete an application form
- Submit application form together with stipulated declarations to the Office of the Controller
- For an application in respect of whom section 2D of the Act is not applicable; **regulations 13(1)(a)(b)(c)(d)(i-iv) is binding.**



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Lodging Of A Site License Application

- In the case of an applicant in respect of whom section 2D of the Act is applicable, Refer regulation 13(2)(a)(b)(c)(d)(e)(f).
- An application contemplated in sub-regulation (1) must be lodged together with an application for a corresponding retail license.
- An applicant contemplated in sub-regulation (1) in respect of whom section 2D of the Act is not applicable may not commence with construction on a site until the Controller has issued a site license



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Lodging Of A Retail License Application

- An applicant for a retail license must-
 - Complete an application form
 - Lodge the application together with the documents specified.
 - Provide Net Present Value Calculations and all data and assumptions used in the calculations of the net present value.
 - Advertise notice of application for retail license in at least two of the most popular newspapers circulating in the area of the proposed activity in two official languages one of which must be in English.



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Lodging Of A Retail License Application

- An Advertisement notice must state:
 - The name of the applicant
 - The application reference number issued upon acceptance.
 - The purpose of the application.
 - The place where the application will be available for inspection by any member of the public.
 - The period within which any objection to the issuing of the license may be lodged with the Controller.
 - The address of the Controller where objections may be lodged.
 - Period is 20 working days from date of publication of the notice.



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Lodging Of A Wholesale License Application

- An applicant for a wholesale license must-
 - Complete an application form
 - Lodge the application together with the documents specified.
 - Provide a list of all distribution facilities intended to be used, including shared storage and distribution facilities.
 - Advertise notice of application for wholesale license in at least two of the most popular national newspapers in two official languages one of which must be in English.



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Lodging Of A Wholesale License Application

- An Advertisement notice must state:
 - The name of the applicant
 - The application reference number issued upon acceptance.
 - The purpose of the application.
 - The place where the application will be available for inspection by any member of the public.
 - The period within which any objection to the issuing of the license may be lodged with the Controller.
 - The address of the Controller where objections may be lodged.
 - Period is 20 working days from date of publication of the notice.



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Publication Process

Proof of Publications must be lodged with the Regional office of the Controller of Petroleum Products.

(Full Cut-out of the newspaper where the notice is advertised.)



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Evaluation of a License Application

In evaluating an application for any retail license, the Controller must, subject to sub-regulation (2), verify that-

- (a) the information and the documents submitted with the application form are true and correct; and
- (b) the notice of application contemplated was published.



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Evaluation of a License Application

In the case of an application for a retail license made by a person in respect of whom section 2D of the Act is not applicable, the Controller must be satisfied that-

- (a) the retailing business is economically viable; and
- (b) the notice contemplated in regulation 16(1) was published.

In determining the economic viability contemplated in sub regulation (2)(a), the Controller must be satisfied that the net present value has been correctly calculated and is positive.



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Evaluation of a License Application

- The Statutory Period is 90 days provided all required and supporting documents are lodged with the office of the controller of Petroleum Products.
- If subsequent requested information is not availed, then the 90 days cycle will be adversely affected



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Documentation to be submitted to the Controller upon a successful application

- When an application has been successful and upon request on the Controller, the applicant must-
Submit proof of payment of the license fee to the Controller and
- In the case of an applicant who does not qualify in terms of Section 2D of the Act-
submit an environmental management plan and
provide proof of financial provision for the purpose of rehabilitating a site upon cessation of the retailing activities



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Temporary Retail License

A temporary retail license may be issued only in respect of a licensed retailing activity upon the payment, by the applicant, of the temporary retail license fee determined in Annexure B into the relevant regional bank account.



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Temporary Retail License

An application for a temporary retail license must be made to the Controller on an application form in the form contained in Annexure A and must-

- (a) be in writing
- (b) only be in respect of a licensed retailing activity;
- (c) Include proof of hardship that would result if the licensed activity ceased to be licensed;
- (d) be accompanied by a certified copy of the original license certificate;
- (e) be accompanied by a certified copy of the applicant's identity document if the applicant is a natural person; and
- (f) be accompanied by a certified copy of the business entity's registration documents



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Temporary Retail License

The Controller may set special conditions for a temporary retail license according to the circumstances presented in the application.



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AMENDMENTS TO LICENSES

- Change of Ownership Percentage
- Change of Shareholding
- Change of Business Name
- A licensee may apply, in writing, to the Controller for a license to be amended by-
 - specifying the amendment sought; and
 - setting out the reasons for the
 - amendment sought.



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AMENDMENTS TO LICENSES

- The Controller must consider the request contemplated in sub-regulation (1) and may issue an amended license provided that-
- The amendment will not affect any rights, debts, liabilities or obligations of the licensee, nor render defective any legal proceedings by or against the licensee, and any legal proceedings by or against the licensee, and any legal proceedings that could have been continued or commenced by or against the licensee prior to such change' and
- The applicant has paid the amendment license fee determined in Annexure B.



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Annual Compliance

- Annual License Fee payable on an Anniversary of a License
- Payment on receipt of Notification Letter from DoE
- Annual Information to be lodged by End of February.



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Questions??



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Thank You

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