

Trading of Petroleum Products: Focus on the New Regulatory System in UAE

Energy, Utilities & Mining Focus

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Petroleum trading in the UAE has been recently regulated by Federal Law No. (14) of 2017 on trading in Petroleum Products (“PTL”), Cabinet Resolution No. 35 of 2019 regarding the executive regulations of Federal Law No. (14) of 2017 and the Ministerial Resolution No. (61) of 2020 regarding the unified regulatory procedures for the trading of petroleum products (collectively referred to as the “Implementing Regulations”).

The aim of PTL and its Implementing Regulations is to organise and unify the trade of petroleum products across the seven Emirates and to determine the general trade conditions and procedures applicable in the nation while aiming to combat the practices intended to harm the national economy, the security and the environmental safety.

The provisions of the PTL and its Implementing Regulations apply to the entire territory of the UAE, including free zones, special development zones and investment zones.

In this article, we will tackle the newly introduced “Petroleum Trading Permit” and highlight the role of the two (2) main local petroleum regulatory bodies, namely the “Competent Authority” and the “Committee for the Organisation of Trading of Petroleum Products” as provided for under the PTL and Implementing Regulations.

Petroleum Trading Permit

According to the PTL, no natural or legal person may trade Petroleum Products in the territory of the UAE unless duly authorised to by virtue of petroleum trading license (“Trading License”) based on a trading permit rendered by each Emirates’ local Competent Authority (“Trading Permit”). The Trading Permit shall be valid for one year and renewable for similar periods.

The purpose of the Trading Permit system is to protect the national economy, security and environmental safety. Hence, any breach committed by any Petroleum Products’ trader of the Trading Permit system in its conditions precedents or legal obligations as set forth in the PTL and its Implementing Regulations shall be considered as a violation and shall be

incriminated by the applicable laws.

The PTL and its Implementing Regulations have identified the “Petroleum Products” and types of “Trading activities“ that require Trading Permit.

Petroleum Products

The Petroleum Products have been defined by the PTL as hydrocarbon gas and petroleum derivatives extracted from crude oil, produced or imported for circulation (“Petroleum Products”).

Hydrocarbon gas include hydrocarbons in their gaseous state, including without limitation, the petroleum derivatives produced or imported for circulation, natural, compressed and liquefied gas and the gas residues remaining from the process of separating crude oil, the waste disposal sites or any other source. Petroleum derivatives on the other hand, consist of the petroleum materials extracted from crude oil, including without limitation, gasoline, kerosene, gas oil (diesel), fuel oil, base oils and lubricants of various kinds, such as motor oils, industrial oils and grease, bitumen, liquefied petroleum gas

(domestic), and biofuel derivatives.

Nevertheless, it is important to note that crude oil has been expressly excluded from the scope of the PTL and shall not be considered among the Petroleum Products covered by its provisions as it is subject to a different set of regulations.

Moreover, Article (11) of the PTL has specifically granted the right for each emirate to specify the Petroleum Products that the licensee may trade in accordance with the provisions of the PTL.

The Trading activities that require a Trading Permit

The regulated Petroleum Trading activities that are subject to a Trading Permit are defined by Article (10) of the PTL as follows:

1. Importing Petroleum Products from outside the UAE;
2. Distributing Petroleum Products;
3. Transporting Petroleum Products;
4. Selling and purchasing Petroleum Products;
5. Manufacturing Petroleum Products;

“The purpose of the permit system is to protect the national economy, security and environmental safety.”

6. Marketing Petroleum Products;
7. Storing Petroleum Products;
8. Any other activity determined by the Competent Authority in each Emirate.

The Ministerial Decree No. (61) of 2020 defining the unified regulatory procedures of Petroleum Products' Trading has further implemented a classification of the Petroleum Trading activities under the following main categories:

1. Production and transportation of liquefied petroleum gas including filling of domestic gas cylinders, central gas tanks and distribution of domestic gas;

2. Production and trading in fuel including trading in petroleum derivatives, diesel, gas, asphalt and petrochemicals;
3. Storage of fuel, including storage and packaging of equipment and tanks of derivative products in large and small storage facilities;
4. Transportation and distribution of fuel, including distribution of automotive and vehicle fuel and oil trading and transportation.

Article (2) of the aforementioned Decree has additionally defined the conditions precedents and requirements necessitated for obtaining the Trading Permit for each classified Trading activity

as per the foregoing:

1. If the Permit applicant is a natural person, he shall be of an Emirati nationality, or alternatively if the Permit applicant is a legal entity, the national local partner's contribution thereof should not less than (51%) of the capital except in the case of companies established in the UAE's free zones, special development zones and investment zones;
2. The applicant must have full legal capacity, good conduct, good reputation and a clean criminal record;
3. The applicant should not have suffered the cancellation of a previous trading permit for violation of any of the conditions stipulated in the provisions of the PTL or its Implementing Regulations, unless (3) three years have passed since the cancellation
4. The applicant should provide a suitable location for the facility where the trading will take place. The facility should further meet all technical, engineering, health and environmental conditions applied by the Competent Authority and the concerned regulatory bodies in the emirate in which the

- Applicant wishes to practice Trading activity.
5. The applicant must have obtained a conformity certificate from the Competent Authority for the Petroleum Products that the Applicant wishes to trade in, or alternatively a trading contract from one of the companies owned or affiliated with one of the government agencies in the UAE;
 6. The applicant must ensure that the means of transport of the Petroleum Products and its associated monitoring and tracking devices comply with the safety and security requirements and standards applicable in UAE;
 7. Applicant should provide the appropriate equipment and devices for manufacturing, storing or packing Petroleum Products in compliance with the UAE's standard specifications;
 8. The applicant must fulfil the security, health and public safety requirements applicable in the UAE;
 9. The applicant must provide the necessary systems for the proper handling of the waste generated from Petroleum Products' manufacturing operations;
 10. The applicant must abide by any other

conditions or requirements specified by the Competent Authority and relevant regulatory body in the concerned Emirate.

It is important to note that, in compliance with the provisions of Article (5) of the Ministerial Decree No. (61) of 2020, it is not permissible for an authorised trader to transport petroleum products between two or more emirates in the UAE without an additional special transportation permit from the Competent authority in the emirate in which the petroleum products will be traded, subject to the conditions set forth in Article (5) for that purpose.

Local Petroleum Regulatory Bodies

The Committee for the Organisation of Trading of Petroleum Products ("Trading Committee") and the Competent Authority are entrusted with major roles in the petroleum trading business practice. They are in charge of the implementation of the highest safety and security standards while ensuring that transportation, storage and distribution of Petroleum Products is carried out according to

the standards criteria set out by the PTL and its Implementing Regulations.

The Trading Committee

In pursuance of Article (5) of the Cabinet Resolution No. (35) of 2019 regarding the executive regulations of Federal Law No. (14) of 2017, a committee shall be formed in each Emirate known as the "Committee for the Organisation of Trading of Petroleum Products" (Trading Committee) and entrusted with the authorities and powers to issue decisions and recommendations with regard to the Trading Permit upon the request of the Competent Authority.

The number of the Trading Committee members shall not be less than (7) seven persons with experience and competence, among whom shall be representatives of the Ministry of Energy and Infrastructure, the Ministry of Interior and the Federal Authority for Land and Maritime Transport.

The members of the Trading Committee, and its chairman and deputy, shall be appointed by a

decision issued by the Competent Authority, provided that the term of membership shall be specified in this decision.

The Trading Committee issues its decisions and recommendations by a majority vote of the members present and the Committee may seek the assistance of whomever it deems appropriate with skills and expertise, without having a voice counted in its deliberations.

For purpose of granting an affirmative recommendation in favour of the issuance of a Trading Permit, the Trading Committee shall verify the fulfilment of the legal conditions and requirements of the means of warehouses, facilities, utilities, and transport belonging to the Trading applicant in compliance with the security and environmental safety standards and any other additional conditions or procedures that the Trading Committee may deem necessary.

The Competent Authority

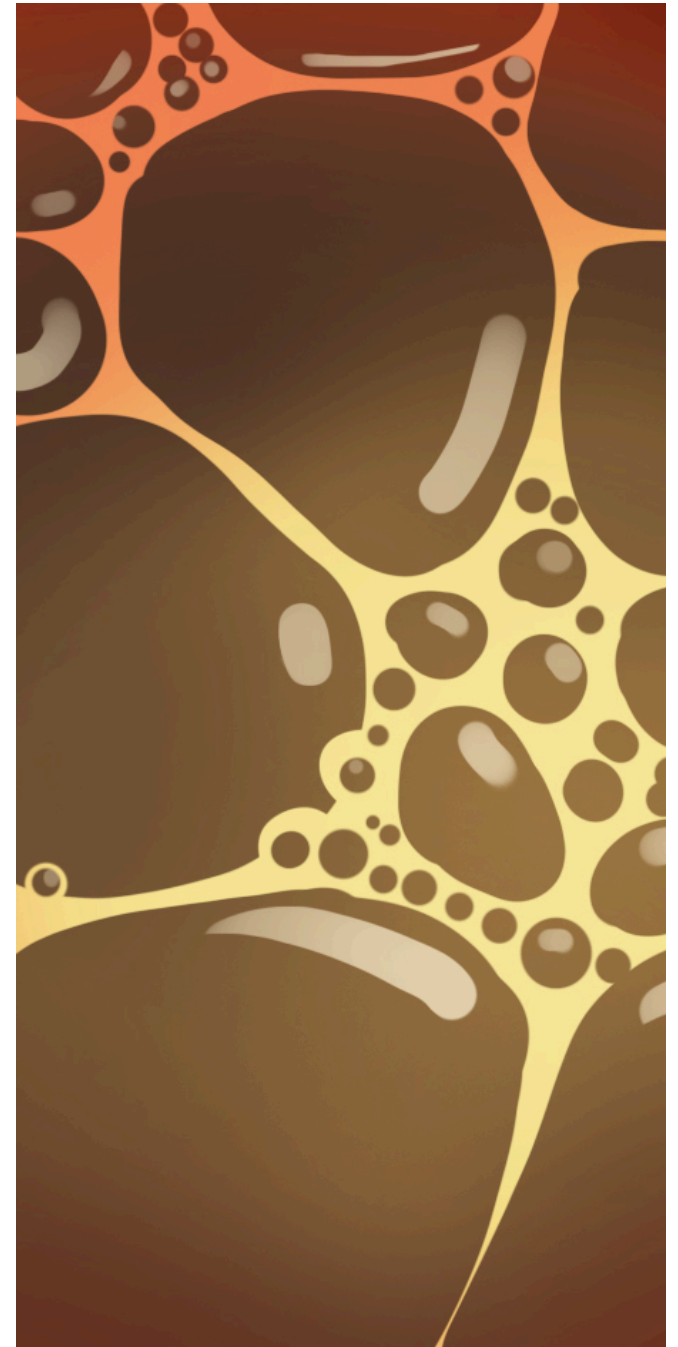
The Competent Authority is defined by the PTL and its Implementing Regulations as the local

authority in each Emirate having the power to issue the Trading Permit based on the recommendations of the Trading Committee.

Upon receipt of the recommendation of the Trading Committee, the Competent Authority shall issue the Trading Permit in accordance with the conditions and requirements prescribed in the PTL and its Implementing Regulations after verification of the Trading Applicant's compliance with the provisions of the applicable laws and regulations including the mandatory obligations set out in Article (13) of the PTL.

Such obligations include declaration and record keeping, safety and public health standards' compliance as well as abidance by the Trading Permit terms and conditions and by the specifications and directives set out by the Competent Authority and include namely:

1. Registering in the special register established at the Ministry of Energy ("Petroleum Substances Trading Register"), in which data relating to the authorized person, establishments, and means of transportation



- through which trading takes place are recorded;
2. Keeping a register for the Petroleum Products subject to trading and their respective quantities;
 3. Keeping the documents proving ownership and source of Petroleum Products subject to trading to the exercise of the trading activity;
 4. Respecting the conditions of the Trading Permit;
 5. Exercising the activity in the location specified in the Trading Permit and notifying the Competent Authority before making any change to the place where the authorised activity is being exercised;
 6. Complying with the security and safety standards and specifications of the Petroleum Products adopted by the Competent Authority;
 7. Compliance with the State adopted specifications for the equipment and devices used in petroleum trading;
 8. Providing safety equipment, devices and requirements of safety in the places and means of transport used for trading in Petroleum Products;

9. Notifying the concerned authorities in the State in the event of any accidents that pose a threat to life, properties, the public health or the environment;
10. Enabling the employees of the Competent Authority to check the records and documents related to the trading activity, inspect the petroleum product, take samples and examine the equipment, devices, facilities and means of transport used in the trading process.

Once a Trading Permit is issued, the Competent Authority shall verify the compliance of the authorized trader with the requirements of registration in the Register to complete the procedures for obtaining a Trading License.

Conclusion

The new petroleum regulations in the UAE embedding an essential reform with major improvements in the industry field, directly, with essential improvements directly impacting the national economy, security and environmental safety.

Although the Petroleum Trading Permit concept

was introduced by the PTL since 2017, its adoption and implementation by the various emirates are still under continuous development. The relevant Trading Committees have been already formed, and are currently working in close coordination with the relevant Competent Authorities across the emirates.

Nevertheless, the new petroleum trading system faces practical challenges on the ground as the system is still taking shape in terms of integration of the permit process between the federal and local authorities from hand, and fine-tuning the procedures across the various authorities implicated in the process of issuance of the

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Trading Permit and ultimately the Trading License, from the other.

Thank you for reading

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