WHEREAS, it is essential to ensure that the petroleum and petroleum products supply operation carried out in the country comply with accepted international safety and quality standards to safeguard human health, property and the environment;

WHEREAS, to achieve this objective, it has become necessary to ascertain, through follow up and supervision, the required competency, in accordance with the prevailing international practice, of facilities and experts engaged in refining, storing, transporting, distributing and retailing petroleum and petroleum products and in related activities;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia it is hereby proclaimed as follows:

PROCLAMATION No. 838/2014

A PROCLAMATION TO REGULATE PETROLEUM AND PERTROLEUM PRODUCTS SUPPLY OPERATION

Petroleum and Petroleum Products Supply Operation Proclamation

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Proclamation No. 838/2014

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II. Definitions

This Proclamation may be cited as "Petroleum and Petroleum Products Supply Operation Proclamation No. 838/2014".

2. Definitions

In this Proclamation, unless the context otherwise requires:

1/ "petroleum" includes crude oil and any liquid or gas made from crude oil, coal, schist, shale, peat or any product of crude oil and condensate;

2/ "petroleum product" means organic compounds, pure or blended, which are derived from refining or processing of crude oil, bio-fuel or synthetic fuel and includes:

a) asphalt, bitumen, petroleum coke, and other residue products;

b) bunker or heavy residual fuel oil for combustion engine or industrial heat process such as burner for boiler or heating furnace;

c) commercial gases such as methane, ethane, propane, butane and other similar petroleum gases, bio gas or mixtures of such gases, whether in gaseous or liquid state;

d) benzene or diesel, bio-diesel, industrial marine diesels or synthetic diesels;

e) bio-ethanol products;

f) kerosene or other similar oils for illumination or combustion applications;

g) lubricants, base oils or refined and blended finished oils;
h) turbo fuels for jet propulsion engines;

i) other products or by-products of petroleum crude processing having a flash point lower than 120 degrees celsius, as determined in a Pensky-Martens closed test apparatus;

3/ "petroleum supply operation" means activities for or in connection with the importation, exportation, refining, blending, transporting, storing, distributing, retailing of petroleum and petroleum products or any other related work including operations of institutions who buy petroleum products for their own consumption directly from wholesalers;

4/ "supply chain" includes activities, operations, installations and equipment directly or indirectly related to petroleum supply operation;

5/ "petroleum facility" means any facility for use in refining, blending, storing, transporting, exporting, importing, distributing or retailing of petroleum and petroleum products and for other related activities;

6/ "refinery" means a distillation plant for refining crude oil to yield petroleum products and liquid petroleum gas;

7/ "pipeline" means a pipeline or a network of pipelines to be used for transporting petroleum or petroleum products, including related works and equipments;

8/ "construction" means the construction of petroleum facility, excluding the construction of buildings related thereto;

9/ "blending" means mixing up of petroleum product with bio-fuel or other technological product at a limited and proportional volume for the purpose of better economic and environmental interest;
10/ “adulteration” means the mixing of high quality grade of petroleum product with one or more lower grade of petroleum product in violation of the provisions of this Proclamation or other relevant law which may endanger human being, other living things, the environment, equipment or machinery;

11/ “storage” means holding petroleum and petroleum products for a limited period of time until delivered to other storage or distribution facilities;

12/ “transportation” means transporting petroleum products from a given depot outside of the country to a depot in Ethiopia or from a local depot to another depot or to a facility from which it will be directly distributed to consumers by using different means of transportation;

13/ “distribution” means the provision of bulk petroleum products to retail petroleum stations or bulk consumers;

14/ “wholesaler” means, without prejudice to the provisions of other law with regard to importation of petroleum and petroleum products, any person who buys petroleum and petroleum products from producer or importer and sales to retailers and where any producer or importer is involved in directly selling petroleum and petroleum products to retailers or wholesalers, he shall be considered as participating in wholesale business;

15/ “retailer” means any person who buys petroleum and petroleum products from wholesaler, importer or producer and sells to end-consumers, and where wholesaler, importer or producer sells petroleum and petroleum products directly to end-consumers, he shall be considered as participating in retail business;

16/ “certificate of competence” means a certificate issued to a person confirming his competence to engage, for commercial or non-commercial purpose, in refining, blending, importing, exporting, storing, transporting, distributing or retailing petroleum and petroleum products and in other related activities;


3. Scope of Application

1/ This Proclamation shall be applicable on any petroleum and petroleum products supply operation in Ethiopia.

2/ Notwithstanding the provision of sub-article (1) of this Article, this Proclamation may not apply to the exploration, development and extraction of petroleum and transportation and storage of such petroleum within the development area as well as on petroleum supply operation for military purpose.

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PART TWO

CERTIFICATE OF COMPETENCE AND CONSTRUCTION PERMIT

4. Certificate of Competence

No person may engage in petroleum supply operation without having a certificate of competence pursuant to this Proclamation.

5. Application for Certificate of Competence

1/ Any person who wants to engage in petroleum supply operation shall apply for certificate of competence to the Ministry.

2/ The procedure for applying, evaluation and approval of the application, preconditions to be fulfilled and information and other documents to be submitted shall be determined by directive to be issued for the implementation of this Proclamation.

6. Issuance of Certificate of Competence

1/ The Ministry shall evaluate the application filed in accordance with Article 5 of this Proclamation in terms of the conditions enumerated under sub-article (2) of this Article and issue or deny the requested certificate of competence.

2/ The Ministry, before issuing the certificate of competence, shall take the following conditions into consideration:

a) the contribution to be made in meeting the future petroleum products demand of the end-users;

b) compliance with the national energy plan and strategies;

c) the contribution it may provide to create the spirit of competition in the petroleum and petroleum products supply industry;

d) the impact it may cause in terms of social and environmental protection;

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The Ministry shall renew the certificate of competence, having ascertained that the certificate holder has observed the conditions provided for in this Proclamation, as well as the legal, technical and financial capacity of the organization; the impact it may cause to the public health and safety as well as employees of the organization; the local community on the proposed activity; and other public interests that may be affected due to the proposed activity.

3/ Where the application for certificate of competence is refused by the Ministry pursuant to this Article, the reason for such refusal shall be notified to the applicant in writing, within the time limit determined by regulation to be issued for the implementation of this Proclamation.

7. Duration and Renewal of Certificate of Competence

1/ The duration and the time limit for renewal of the certificate of competence issued pursuant to this Proclamation shall be determined by regulation to be issued for the implementation of this Proclamation.

2/ The Ministry shall renew the certificate of competence, having ascertained that the certificate holder has observed the conditions provided for in this Proclamation, as well as regulation and directive to be issued hereunder.

3/ A certificate of competence shall be presumed to have been canceled if it is not renewed within the time limit determined pursuant to sub-article (1) of this Article.

8. Service Charge

The service charge that shall be paid by applicants for the issuance and renewal of certificate of competence shall be prescribed by regulation to be issued for the implementation of this Proclamation.
9. Transfer of Certificate of Competence

Unless the Ministry approves in writing, certificate of competence may not be transferred to another person.

10. Suspension or Revocation of Certificate of Competence

A certificate of competence issued in accordance with this Proclamation may be suspended or revoked where the certificate holder:

1/ violates the provisions of this Proclamation or other law regarding environmental protection, community safety, the capacity to store the minimum volume of petroleum products as distributor, number of retail facilities under it, quality of petroleum products, adulteration of petroleum products or tax evasion;

2/ fails to correct within the time limit determined by regulation to be issued for the implementation of this Proclamation after receiving a written notice with regard to the standards and requirements to be met with respect to a petroleum facility.

11. Petroleum Facility Construction Permit

No one can undertake construction work of petroleum facility without having construction permit issued in accordance with this Proclamation, except regular repair works and pipeline construction in an existing petroleum facility.

12. Application for Construction Permit

Any application to be filed in request of construction permit shall contain the following information:

1/ name and address of the applicant;

2/ type of the proposed construction work;

3/ significance and economic feasibility of the proposed construction work;
13. Validity Period of Construction Permit

Unless the proposed construction work is commenced within 12 months after issuance of a petroleum facility construction permit, the permit shall be considered as cancelled.

14. Suspension or Revocation of Construction Permit

1/ The Ministry may, by giving a one month notice, suspend a construction permit issued pursuant to this Proclamation if any term or condition thereof has not been complied with.

2/ The Ministry shall revoke a suspension of construction permit under sub-article (1) of this Article if the licensee has rectified the reason for the suspension within the one month notice period.

3/ Where the licensee fails to rectify the reason for suspension of the permit within the one month notice period, the Ministry shall revoke the permit.

15. Usage of Permitted Construction Works

No petroleum facility constructed pursuant to a permit given in accordance with this Proclamation shall become operational unless the Ministry has confirmed, in writing, that the preconditions set by a directive issued under this Proclamation are being satisfied.
16. Compliance with the Laws

1/ Any licensee shall comply with all relevant laws, standards and technical specifications relating to petroleum facility with respect to occupational health, public safety and environmental protection.

2/ Any licensee shall have the duty to keep registers and records relating to his operation and submit reports when requested by the Ministry.

3/ Any licensee shall have the duty to cooperate with any inspector assigned by the Ministry to get access to any petroleum facility or petroleum facility construction site to carry out inspection and monitoring activity.

PART THREE
PUBLIC HEALTH AND SAFETY AND PROTECTION OF THE ENVIRONMENT

17. Standards and Specifications

The Ministry shall cooperate with the concerned bodies in the adaptation of standards and specifications as well as code of conduct of the petroleum supply chain infrastructure and the quality of petroleum products and services.

18. Environmental Impact Assessment

The Ministry, in consultation with the appropriate body, shall define petroleum supply operations that require environmental impact assessment by directive to be issued for the implementation of this Proclamation as a precondition for issuing certificate of competence pursuant to this Proclamation.

19. Petroleum and Petroleum Products Spill

1/ Where there is more than 500 liters of petroleum or petroleum products spill, the custodian of the product shall report the incident to the Ministry or to the organ delegated by the Ministry within 24 hours after the incident.
2/ The custodian or the owner of the product shall immediately take appropriate measures to clean-up the spill to prevent the occurrence of any damage to the environment.

3/ Where the person referred to in sub-article (1) or (2) of this Article fails to discharge its obligation and the Ministry or the delegated organ incurs expense to clean up the spill, such person shall be liable to reimburse the cost.

PART FOUR
PETROLEUM OR PETROLEUM PRODUCTS SUPPLY OPERATION

20. Complying with Standards
Petroleum or petroleum product to be distributed to end-users shall comply with the country’s standards and specifications.

21. Transportation of Petroleum and Petroleum Products
Any tanker or pipe line used for petroleum or petroleum products transportation shall comply with the standards and specifications set out for such purpose.

22. Utilization of Petroleum or Petroleum Products
Any petroleum or petroleum product shall be used for the intended purpose only.

23. Blending
The Ministry may issue a directive on blending petroleum product with bio-fuel or other technological product.

24. Keeping Reserve Petroleum Products
Any distributor shall keep reserve stock of not less than 500m³ so as to have a reliable supply of petroleum products in the country.
POWERS AND DUTIES OF THE MINISTRY AND ESTABLISHMENT
OF TECHNICAL ADVISORY COMMITTEE

25. Powers and Duties of the Ministry

The Ministry shall have the powers and duties to:

1/ advise the Government on petroleum and petroleum products supply policy and strategy matters;

2/ coordinate all legislative and regulatory proposals relating to petroleum and petroleum products supply chain operations;

3/ in consultation with the appropriate body, cause the issuance of technical specifications and quality control system regarding petroleum and petroleum products imported or produced locally, and monitor the enforcement of same;

4/ evaluate and approve applications submitted pursuant to this Proclamation in consultation with the pertinent bodies to maintain public health and safety and environmental protection and ensure safety of supply chain operations;

5/ ensure the availability of sufficient petroleum and petroleum products for emergency supply in the facilities of the authorized body, and the supply of petroleum and petroleum products in the market in sufficient quantity;

6/ conduct or cause to be conducted studies necessary for administrative and regulatory activities in relation with the supply of petroleum and petroleum products;

7/ issue, renew, suspend or revoke construction permit and certificate of competence in accordance with this Proclamation and regulations to be issued hereunder;

8/ undertake the necessary monitoring and inspection activities in relation to technical, economic, environmental and safety impacts of petroleum supply operations;
26. Establishment of Technical Advisory Committee

1/ A Technical Advisory Committee (hereinafter the "Committee") is hereby established to provide advice regarding petroleum supply operations.

2/ The "Committee" shall be accountable to the Minister.

27. Members of the Committee

Members of the Committee, including the chairperson, shall be drawn from the relevant government organs and the private sector and be appointed by the Government; and their number shall be determined as necessary.

28. Functions of the Committee

The Committee shall:

1/ examine and enrich, through deliberations, policies, draft laws and strategies that are studied, prepared and presented to it by the Ministry in relation with petroleum supply operations and related issues, and submit its recommendation to the Minister;

2/ advise the Minister regarding measures that it deems constructive and necessary to be taken in relation with petroleum supply operations and other related issues.

29. Meetings of the Committee

1/ The Committee shall meet twice a year; provided, however, that it may hold an extraordinary meeting at any time when necessary.
2/ The presence of the majority of the members shall constitute a quorum.

3/ Decisions of the Committee shall be passed when supported by majority vote; provided, however, that the chairperson shall have a casting vote in case of a tie.

4/ Without prejudice to the provisions of this Article, the Committee may adopt its own rules of procedure for conducting meetings.

PART SIX
MISCELLANEOUS PROVISIONS

30. Penalty

Any person engaged in petroleum supply chain operation who adulterate petroleum product under his possession with any lower grade petroleum product or any other solid or liquid matter in order to get unlawful benefit shall be punishable in accordance with the relevant provisions of the Trade Competition and Consumers Protection Proclamation No. 813/2013.

31. Power to Issue Regulation and Directive

1/ The Council of Ministers may issue regulations necessary for the implementation of this Proclamation.

2/ The Ministry may issue directives necessary for the implementation of this Proclamation and regulations issued under sub-article (1) of this Article.

32. Inapplicable Laws

No law or practice shall, in so far as it is inconsistent with this Proclamation, be applicable with respect to matters covered by this Proclamation.

33. Transitional Provisions

Any person who has engaged in petroleum products supply chain before the effective date of this Proclamation shall make the necessary arrangements with respect to his petroleum facility and its practices to comply with the provisions of
34. Effective Date

This Proclamation shall enter into force on the date of publication in the Federal Negarit Gazette.

Done at Addis Ababa, this 15th day of August, 2014.

MULATU TESHOME (DR.)

PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA