

ENERGY REGULATORY OFFICE
DEPARTMENT OF LIQUID FUELS MARKET

INFORMATION PACKAGE

ON A REGISTER OF IMPORTING ENTITIES

WARSAW, July 2021

Pursuant to Article 32 item 1a section 1 of the Energy Law Act of 10 April 1997 (Journal of Laws of 2021, item 716, as amended), the President of ERO keeps a register of importing entities. This register is open and public and made available in the ERO's Bulletin of Public Information.

An importing entity may begin performing an activity in the area of importing liquid fuels only after having been entered into a register of importing entities (Article 32c item 1 of the Energy Law Act).

An importing entity, within the meaning of Article 3 section 12c of the Energy Law Act, is a natural person, a legal person or an organizational unit without legal personality, which imports liquid fuels on its own or by intermediary of another entity, excluding imports of liquid fuels:

- a) as part of performing an business activity in the field of foreign trade in liquid fuels which requires obtaining a licence referred to in Article 32 item 1 section 4 of the Energy Law Act,
- b) intended for use during transport and brought in standard containers referred to in Article 33 item 1 of the Excise Tax Act of 6 December 2008 (Journal of Laws of 2020, item 722, as amended).

Pursuant to Article 3 section 12b of the Energy Law Act, importing liquid fuels shall mean bringing in liquid fuels to the territory of the Republic of Poland through intra-Community purchase or imports.

Pursuant to the provisions of the Ordinance of the Minister of State Assets dated 27 November 2019 on a specification of liquid fuels whose production, storage or reloading, transmission or distribution, trading, including foreign trading, requires a licence and whose imports requires entering into a register of importing entities (Journal of Laws 2019 item 2332), amended by the Ordinance of the Ministry of Climate dated 7 August 2020 on a specification of liquid fuels whose generation, storage or reloading, transmission or distribution, trading, including foreign trading, requires a licence and whose imports requires entering into a register of importing entities (Journal of Laws 2020 item 1431), **entering into a register of importing entities is required for imports of liquid fuels labelled with the following CN codes:**

- 1) **Refinery semiproducts:** 2707 50 00, 2710 12 11, 2710 12 15, 2710 19 11, 2710 19 15, 2710 19 31, 2710 19 35, 2710 19 51, 2710 19 55;
- 2) **Liquid petroleum gas LPG:** 2711 12, 2711 13, 2711 14 00, 2711 19 00, 2901 10 00;
- 3) **Heavy gasoline:** 2710 12 11, 2710 12 15;
- 4) **Engine petrol:** 2710 12 25, excluding white spirits and industrial spirits, 2710 12 41, 2710 12 45, 2710 12 49, 2710 12 50, 2710 12 90, 2207 20 00;
- 5) **Aviation petrol:** 2710 12 31;
- 6) **Gasoline type jet fuels:** 2710 12 70;
- 7) **Naphta type jet fuels:** 2710 19 21;
- 8) **Other naphta types:** 2710 19 25, 2710 19 29
- 9) **Diesel oils:** 2710 19 43, 2710 20 11;
- 10) **Light heating oils:** 2710 19 46, 2710 19 47, 2710 19 48, 2710 20 16, 2710 20 19;
- 11) **Heavy heating oils:** 2707 99 19, 2707 99 91, 2707 99 99, 2710 19 62, 2710 19 66, 2710 19 67, 2710 20 32, 2710 20 38, 2710 20 90;
- 12) **White spirit and industrial spirit:** 2710 12 21, 2710 12 25;
- 13) **Liquid biofuels:**

- a) 3826 00 10, excluding methyl esters which are additions to liquid fuels,
 - b) Liquid biofuels other than listed under a), regardless of the CN code, excluding liquid biofuels which are additions to liquid fuels.
- 14) **Grease:** 2710 19 71, 2710 19 75, 2710 19 81, 2710 19 83, 2710 19 85, 2710 19 87, 2710 19 91, 2710 19 93, 2710 19 99, 2710 20 90, 3403 19 10, 3403 19 20, 3403 19 80.

The binding classification of the Combined Nomenclature (CN codes) is specified in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (EU OJ L 256 of 7 September 1987, p. 1). A review of this nomenclature is also available from the website of the Ministry of Finance: isztar.mf.gov.pl

Circumstances preventing entering an entity to a register of importing entities

Pursuant to Article 32b of the Energy Law Act, an entity may not be entered into a register of importing entities if it:

- 1) has been convicted with a valid court decision for a crime or fiscal crime related to the business activity subject to the provisions of the Act;
- 2) is in arrears with payment of taxes which constitute income of the state budget, except for cases when the applicant obtained tax release, deferral, rescheduling the payment of tax arrears or tax on instalments or withholding the execution of a decision issued by a relevant tax authority or fiscal control body, as stipulated by the legal provisions in force.

Pursuant to Article 32b item 2 of the Energy Law Act in the case of an applicant which is a legal person or an organizational unit without legal personality, or a foreign entrepreneur, or a foreign entrepreneur conducting activity on the territory of the Republic of Poland as a branch with a registered office in the territory of the Republic of Poland, established under the terms and conditions specified in the Law Act dated 6 March 2018 on the rules of participation of foreign entrepreneurs and other foreign persons in the economic trade on the territory of Poland (Journal of Law 2021, item 994), the condition referred to item 1 point 1 also applies to persons authorized to represent the applicant and also members of supervisory boards.

Preparation of an application

An application for entering into a register of importing entities shall include:

- 1) designation of an importing entity with:
 - a) first name and surname or business name along with a designation of a legal form,
 - b) place of residence or a seat and their addresses,
 - c) National Personal Identification Number (PESEL) or tax identification number (NIP), if held by an entity,
 - d) statistical number in the national official register of entities of national economy (REGON), if

- held by an entity,
- e) excise number issued by a relevant head of the customs office, if held by an entity,
 - f) series and number of an identity document - for natural persons;
- 2) information on the types of liquid fuels imported (in accordance with the above mentioned classification specified in the Ordinance of the Minister of State Assets);
 - 3) information on the types and location of liquid fuels infrastructure used by the importing entity (based on a definition of the "infrastructure of liquid fuels" specified in Article 3 section 10d of the Energy Law Act, the following infrastructure types have been adopted: installation of liquid fuels production, installation of liquid fuels storage, installation of liquid fuels reloading, station of liquid fuels, means of transport of liquid fuels, for which a location (address) shall be determined, except for means of transport, for which a registration number shall be provided);
 - 4) indication of the purpose of the imported liquid fuel, that is:
 - a) for own needs, or
 - b) to dispose of it by any legal or factual act, for the performance of which a licence for trading in liquid fuels is not required, or
 - c) in connection with business activity in the area of trading in liquid fuels which does not require a licence,
 - d) other (describe in not more than 300 characters);;
 - 5) indication of the planned date of starting the activity in importing liquid fuels.

A model application is available at the ERO's website.

The following documents shall be attached to the application:

- current original information from the National Criminal Register about lack of criminal record of the entity obtained not earlier than 3 months prior to submitting an application

In the case of an applicant that is a legal person or organizational unit without legal personality or foreign entrepreneur or a foreign entrepreneur – current information from the National Criminal Register about lack of criminal record of an entrepreneur performing as the collective entity;

In the case of an entity conducting activity in the territory of the Republic of Poland the above mentioned information should be obtained from the National Court Register (KRS) or from the equivalent Register from the country of origin where the entity is registered.

- current original information from the Polish National Criminal Register about lack of criminal record of persons authorized to represent the applicant, and also members of supervisory boards of this applicant, obtained not earlier than 3 months prior to submission, in case of applicant being a legal person or an organizational unit without legal personality, or a foreign entrepreneur.

Additionally, if the above mentioned persons authorized to represent the applicant or members of supervisory boards are not citizens of the Republic of Poland, it is also obligatory to send an appropriate notice issued by the competent authority of the country of which the above persons are registered citizens (along with a translation by a sworn translator into Polish by).

CAUTION ! Certificate of no criminal record for persons authorized to represent the applicant and members of supervisory boards of a foreign entrepreneur, should be issued by:

- 1) the Polish National Criminal Register and;
 - 2) its equivalent Register in the country of origin where the company is registered was or the National Criminal Register under ECRIS.
- original certificate from the relevant Tax Office, obtained not earlier than 3 months prior to submission, confirming that the entrepreneur is not in arrears in payment of liabilities to the State Budget or stating the balance of possible arrears (in the case of civil law partnerships it is necessary to present certificates separately for every partner and for the partnership), containing also the following information:
- a) on pending enforcement proceedings in administration and criminal or tax offence cases,
 - b) on titles and periods from which potential arrears arise.
- The above mentioned certificate must be filled in the point IV via marking appropriate square that is relevant to the actual state of affairs.

In the case of performing actions through a proxy, the power-of-attorney to perform legal actions on the applicant's behalf should be attached, along with the original receipt or its certified copy for payment of the stamp duty.

In the case when the application does not include the required data, the President of ERO calls the applicant to supplement the application within 7 days of the notice delivery. The application which has not been supplemented with the required data before the set deadline shall not be processed.

The President of ERO shall enter an entity to the register of importing entities by means of a decision.

Modification or deletion of an entry from the register of importing entities

Pursuant to Article 32d item 1 of the Energy Law Act, an entry to the register of importing entities shall be modified or deleted at a request of the importing entity or *ex officio*. The application for a modification or deletion of the entry from the register of importing entities shall be submitted within 7 days of the date of a change of data or ceasing the performance of activity subject to an obligation of entering into such a register.

Addressee of the application

An application for an entry into the register of importing entities should be sent to the address of a relevant Branch Office of the Energy Regulatory Office with jurisdiction over the area of the entity's seat (a list of the Branches with their territorial coverage may be checked on the ERO's website).

For entrepreneurs with their seat or place of residence outside the territory of the Republic of Poland or with their seat in Mazovian Voivodeship, an application should be sent to the address of the seat of the Energy Regulatory Office in Warsaw.

Duration of the procedure

The President of ERO is entitled to enter the applicant to the register of importing entities after an appropriate administrative procedure conducted on the basis of the provisions of the Law Act dated 14 June 1960 - The Code of Administrative Procedure (Journal of Law 2021, item 735).

The duration of the procedure mostly depends on completeness of the submitted application, possibly the party's activity in supplementing the necessary documents and information. It is recommended to file applications duly in advance before the planned starting date of importing liquid fuels.

If the application contains all the required attachments or will be supplemented, the proceeding shall then be processed in accordance with the Code of Administrative Procedure (Article 35 paragraph 1).

It is important that under Article 35 § 5 of the Code of Administrative Procedure, the deadlines envisaged in the provisions of law for performing the specified actions do not include: the periods of delay resulting from a party's fault or from reasons beyond the regulatory authority's control. Therefore, a party's failure to take actions in compliance with the regulatory authority's summons may cause the administrative case to be handled in a correspondingly longer period of time.

Fees associated with entering into register

Entering, removing and modifying entry to register of importing entities are exempt from a stamp fee within the meaning of the Stamp Fee Act of 16 November 2006 (Journal of Laws of 2020, item 1546, as amended).

If the document confirming the granting of a power-of-attorney or attorney-in-fact rights or its excerpt, extract or copy is submitted (which applies also to submitting a certificate of the National Court Register (KRS) confirming granting of a proxy), the stamp fee in the amount of **PLN 17** should be paid (part IV of an exhibit to the Stamp Fee Act). That fee is not collected in the case of submitting a document confirming granting of a power-of-attorney as well as its excerpt, extract or copy:

- certified by a notary public or an authorized authority, authorizing to collect the documents;
- if the power-of-attorney is granted to a spouse, a descendant, an ancestor or a sibling;
- if the principal is the entity specified in Article 7 sections 1-5 of the Stamp Fee Act.

Pursuant to Article 12 item 2 of the Stamp Fee Act, the tax authority with geographic jurisdiction in stamp fee matters on submitting a document confirming granting of a power-of-attorney or attorney-in-fact rights or its excerpt, extract or copy – is the tax authority with geographic jurisdiction over the place of submitting the document.

In case of missing confirmation of the stamp fee payment for the power-of-attorney or proxy, pursuant to Article 11 items 1 and 3 of the Stamp Fee Act, the President of ERO shall provide information to the competent tax authority in order to initiate administrative enforcement due to non-payment of stamp

duty for the power-of-attorney or proxy. The confirmation of the stamp fee payment may take a form of printout from the computer system.

Performing business activity without an entry to the register of importing entities

Anyone importing liquid fuels without the required entry to the register of importing entities is subject to a fine of up to PLN 2,500,000, pursuant to Article 57g item 2 of the Act.

Disclosure and reporting obligations

I

In accordance with Article 43e section 1 of the Energy Law, an energy enterprise carrying out activities consisting in the production of liquid fuels, storage or reloading of liquid fuels, transmission or distribution of liquid fuels, trade in liquid fuels, including trade with foreign countries, as well as entities entered in the register of importing entities, shall submit to the President of ERO information on the types and locations of liquid fuel infrastructure used for the carried out activities - **within 7 days** from the date of commencing operation of the infrastructure or permanent cessation of operation of this infrastructure.

Pursuant to Article 56 section 1 point 48 of the Energy Law Act, the one who fails to submit within the deadline an abovementioned information, or provides false information, is subject to a financial penalty. The amount of this fine is PLN 10,000 separately for each type and location of liquid fuel infrastructure (Article 56 (2h) (8) of the Energy Law).

II

Pursuant to Article 43d section 1 of the Energy Law Act, energy enterprise holding a licence for liquid fuel production or for foreign trade in liquid fuels, as well as an importing entity according to its activity, submits to the President of ERO monthly reports on types and volume of produced, imported and exported liquid fuels, as well as on their purpose – **within 20 days** from the end of the reporting month.

According to Article 56 section 1 item 12b of the Energy Law Act, the one who fails to submit the above reports within the deadline is subject to financial penalty which amounts PLN 10,000 (Article 56 section 2h item 4 of the Energy Law Act).

Article 56 section 1 item 12c of the Energy Law Act stipulates that anyone who reports false data is subject to financial penalty, which ranges from PLN 10,000 to PLN 50,000 (Article 56 section 2h item 5 of the Energy Law Act).

Information on processing of personal data

Pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free

movement of such data, and repealing Directive 95/46/EC¹ (hereinafter: GDPR regulation), I inform that:

- 1) Personal data of natural persons, collected by the President of ERO, are processed by the President of ERO, 02-22 Warsaw, Al. Jerozolimskie 181, which is a personal data controller.
- 2) Personal data are processed on the basis of Article 6 item 1 letter b, c and e of GDPR regulation and other acts, wherein the obligations and duties of the President of ERO were enlisted, in particular: Energy Law Act, RES Act, Act on biocomponents and liquid biofuels, Energy Efficiency Act, Capacity Market Act, Act on stocks of crude oil, petroleum products and natural gas, the principles of proceeding in circumstances of a threat to the fuel security of the State and disruption on the petroleum market, Act on electromobility and alternative fuels.
- 3) Personal data are processed in order to fulfil statutory duties by the President of ERO.
- 4) Personal data collected in relation to fulfilment of statutory duties by the President of ERO, will not be transferred to a third country or international organisation.
- 5) Personal data will be kept for time period resulting from Subject File Index and Office Procedures Manual, binding in the Energy Regulatory Office.
- 6) Natural person has a right to request from personal data controller an access to its personal data, their rectification and a right to lodge a complaint with national supervisory authority – President of the Personal Data Protection Office.
- 7) The recipients of the personal data will be solely entities entitled to obtain personal data on the basis of legal regulations.
- 8) Personal data will not be subject to profiling (automated processing consisting in using personal data for evaluating the personal aspects relating to a natural person).
- 9) In matters connected with personal data protection, please contact the Data Protection Officer by iod@ure.gov.pl or in writing, by sending correspondence to Energy Regulatory Office, Al. Jerozolimskie 181, 02-22 Warsaw, with a note: “Data Protection Officer”.
- 10) Provision of personal data is obligatory when resulting from above mentioned legal grounds.

¹ OJ L 119, 4.5.2016, p. 1