

Extraordinary



Federal Republic of Nigeria

Official Gazette

No. 53

Lagos - 22nd March, 2023

Vol. 110

Government Notice No. 22

The following is published as supplement to this *Gazette* :

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Printed and Published by The Federal Government Printer, Lagos, Nigeria
FGP 38/32023/350

Annual Subscription from 1st January, 2023 is Local : ₦50,000.00 Overseas : ₦65,000.00 [Surface Mail] ₦80,000.00 [Second Class Air Mail]. Present issue ₦3,000 per copy. Subscribers who wish to obtain *Gazette* after 1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.

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PETROLEUM INDUSTRY ACT, NO. 6, 2021
NATIONAL STRATEGIC STOCKS REGULATIONS 2023



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S. I. No. 13 of 2023

PETROLEUM INDUSTRY ACT, NO. 6, 2021**NATIONAL STRATEGIC STOCKS REGULATIONS 2023**

[14th Day of March, 2023]

Commence-
ment

In the exercise of the powers conferred on it by sections 33(m) and 181 of the Petroleum Industry Act, No. 6, 2021 (“Act”) and all other powers enabling it in that behalf, the Nigerian Midstream and Downstream Petroleum Regulatory Authority (“Authority”) makes these Regulations —

1. The objectives of these Regulations are to —

Objectives

- (a) set out the general rules for the administration of the national strategic stocks ;
- (b) stipulate the public service levy for the funding of the national strategic stock ; and
- (c) provide sanctions, fines and administrative penalties for failure to comply with the provisions of these Regulations.

2. These Regulations shall apply to activities connected with the establishment, administration, financing, storage, and distribution of national strategic stocks of petroleum products in Nigeria, including the designation of the strategic locations across the country where the national strategic stocks shall be maintained and distributed from.

Application

3.—(1) There is established the national strategic stocks for petroleum products in Nigeria.

Establishment
of national
strategic
stocks of
petroleum
products

(2) The Authority shall, by notice, designate the petroleum products which shall constitute the national strategic stocks.

4. The operator of a facility designated to hold a petroleum product as national strategic stock shall not release or dispense a petroleum product held as national strategic stock without the written authorisation of the Authority.

Prohibition
against
release or
dispensing
without
authorisation

5. The national strategic stocks of petroleum products are to —

Functions of
national
strategic
stocks

- (a) provide strategic reserve of petroleum products in the country ;
- (b) ensure security of supply of petroleum products ;
- (c) reduce the impact of disruption in the supply of petroleum products in the country ; and
- (d) stabilise the domestic prices of petroleum products.

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Maintenance of the national demand reserve

6. The Authority shall from the effective date of these Regulations, through incremental stocking, maintain a maximum of 60 days national demand reserve of a designated petroleum product as national strategic stock.

National strategic stocks not subject to seizure

7. A petroleum product held as national strategic stock shall not be subject to seizure, forfeiture, lien, mortgage or any other encumbrance by the owner of the facility in which the petroleum product is held or a third party.

National strategic stocks levy

8.—(1) There shall be a national strategic stock levy of not more than 5% of the retail price of petroleum products which shall be collected by the Authority on wholesale basis at wholesale points.

(2) The levy shall apply to any petroleum product imported into or processed and sold in Nigeria and shall be for the purpose of administering and financing of the national strategic stocks.

(3) The Authority shall from time to time determine and publish the amount to be charged as the levy, which shall form part of the retail price of each petroleum product.

(4) The Authority shall maintain accounts for the administration and financing of the national strategic stocks into which the levy shall be paid and expenses incurred disbursed from, and the accounts shall be interest-bearing, and any accrued interest shall be applied to the administration and financing of the national strategic stocks.

(5) The Authority shall issue a debit note for the levy to wholesalers of petroleum products, which shall be paid to the Authority within 21 days from the date of issuance of the debit note.

Duties of the Authority

9. The Authority shall, in the administration of national strategic stocks —

(a) determine a minimum reserve volume of national demand of petroleum products as national strategic stocks ;

(b) impose public service obligations on a licence issued for the bulk storage of petroleum products ;

(c) impose public service obligations on a licensee or permit holder to distribute petroleum product from the national strategic stocks ;

(d) designate such places in consultation with security agencies, as it may consider appropriate on marine and on land for holding, maintenance and distribution of the national strategic stock ;

(e) approve the duration of the maintenance of national strategic stocks at a designated bulk storage facility ;

(f) ensure that the national strategic stocks are efficiently operated within an appropriate corporate governance framework issued by the Authority ;

(g) ensure that national strategic stocks are maintained in a manner that guarantees security of storage, supply and distribution value-chain ;

(h) ensure the integrity and real-time electronic and physical monitoring of petroleum products maintained as national strategic stocks ;

(i) mandate that activities within a designated national strategic stock facility including petroleum products which is the property of the facility owner shall be accessible to the Authority ; and

(j) undertake any activity required to maintain the national strategic stocks.

10.—(1) The operator of a facility which has been designated as national strategic stock facility, shall at all times maintain an operating stock and a dead stock in accordance with guidelines published by the Authority.

Maintenance of operating and dead stock

(2) The holder of a licence for the bulk storage of petroleum products granted by the Authority and designated for national strategic stock, shall maintain a separate operating stock in accordance with guidelines published by the Authority.

11. The Authority shall —

(a) exercise its special powers under the Act to inquire, inspect, examine or investigate any business or activity relating to national strategic stocks in these Regulations where it suspects that illegal operations are going on in the designated bulk storage facility ;

(b) at any time enter into licensed bulk storage facility where national strategic stocks are held, maintained or distributed for the purposes of inspecting records or the facility ; and

(c) where it is considered necessary, require any person or its agent, representatives, partners, directors, officer or employee engaged in holding, maintaining and distribution of national strategic stocks to answer any question that may be relevant to the inquiry, inspection, examination or investigation, and provide any required information contained in a computer hardware or software or any other data storage, processing or retrieval device or system used in connection with the business or activities relating to national strategic stocks in these Regulations and the Act.

Powers of the Authority

12. The Authority shall be responsible for —

(a) determining the annual budget for administering and maintenance of the national strategic stock ; and

(b) keeping proper accounts of the income and expenditure for the national strategic stocks for each fiscal year and causing such accounts to be audited within six months after the end of each fiscal year.

Budget and audit

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Stock management programme

13.—(1) The Authority shall, not later than 90 days before the end of the fiscal year, prepare a stock management programme for the next year.

(2) The stock management programme shall include —

(a) proposed transactions for any fiscal year for administration of the national strategic stocks with adequate financial justification in terms of value of stock to be held, inventory management cost, freight, and other charges for other services ; and

(b) cost implications associated with the proposed transactions and services.

Authority to reimburse costs of maintaining the national strategic stocks

14. The Authority shall, on a quarterly basis, following reconciliation with the facility owner, determine and reimburse the facility owner the cost of operating and maintaining the national strategic stocks.

Authority to set criteria for facility to hold national strategic stocks

15.—(1) The Authority shall, by notice, set out the criteria for a facility to be designated as a holder of national strategic stocks.

(2) Notwithstanding subregulation (1), a facility to be designated as a holder of national strategic stocks shall —

(a) have a valid bulk storage licence ;

(b) comply with the licensing requirements of bulk petroleum storage facilities ;

(c) be a fit-for-purpose facility with good operational management and corporate governance practices to ensure the security of the national strategic stocks stored in the facility ;

(d) maintain the national strategic stocks at the volume and at a quality specification as directed by the Authority ; and

(e) declare to the Authority any administrative or legal proceedings being undertaken by or against the facility or facility owner by a third party which may impact on the security of the national strategic stocks.

Authority to set criteria for product off-take from national strategic stocks

16.—(1) The Authority shall, by notice, set out the criteria for the off-take of products from the national strategic stocks.

(2) Notwithstanding subregulation (1), an off-taker from the national strategic stocks shall—

(a) have a valid retail outlet licence ;

(b) comply with the Authority's licensing requirements for the operation of retail outlets ;

(c) have functional distribution infrastructure and retailing outlets for product dispensing ; and

(d) declare to the Authority any administrative or legal proceedings being undertaken by or against the off-taker by a third party which may impact on the security of the national strategic stocks.

17.—(1) A drawdown from the national strategic stock shall be triggered where the Authority determines that there is a —

- (a) supply disruption of a petroleum product in Nigeria ;
- (b) need to stabilise the domestic price of a petroleum product ; or
- (c) significant threat to the security of supply of a petroleum product.

(2) The Authority shall direct the release and distribution of the petroleum product from the national strategic stock to ensure the security of supply.

(3) The petroleum product off-taker shall comply with the conditions of the evacuation authorisation granted by the Authority which shall include that the —

- (a) evacuation authorisation shall be non-transferable ;
- (b) petroleum product shall be delivered to, and sold, at the stipulated location or retail outlet ;
- (c) petroleum product shall be sold within the Authority's price band, and at the quality and quantity received from the national strategic stocks ; and
- (d) off-taker shall bear the distribution costs of the petroleum product released from the national strategic stocks and such costs shall be considered a component of the retail price of the petroleum product.

18.—(1) The Authority shall monitor facilities designated to hold national strategic stocks to ensure inventory management, confirm operational functionality and verify the security status of the facility.

(2) The minimum acceptable stock level at each facility shall be the sum of deadstock and the assigned national strategic stock of the petroleum product.

(3) The owner or operator of a facility designated to hold national strategic stocks of petroleum products shall —

- (a) ensure that the stock level for the petroleum product designated as national strategic stocks does not fall below the level assigned to the facility ;
- (b) maintain a daily log of earmarked strategic stock for all petroleum products which shall be kept on site for periodic review by the Authority ;
- (c) be required to report stock levels daily in a format as prescribed by the Authority ;
- (d) maintain a daily stock level using automatic level gauging equipment on tanks or manual dipping or any other technology as may be determined and approved by the Authority ;

Drawdown
and
distribution
mechanism

Monitoring
of facilities
designated
for national
strategic
stocks

(e) deploy and maintain resources including technology, which shall be accessible to the Authority, for the real-time monitoring of the petroleum products stored in the facility ; and

(f) designate an employee who shall be responsible for reporting compliance with these Regulations.

Authority to
make
guidelines

19. The Authority may issue guidelines, directives, and notices for the effective implementation of these Regulations.

Offences

20.—(1) A person who fails to pay the levy in the manner stipulated in these Regulations, commits an offence and is liable to an administrative penalty of 10% of the amount unpaid which shall be added for each month or part of it, after the date on which payment should have been made, and the Authority may suspend the operations of the facility into which the product was discharged or stored until the payment is made.

(2) A facility owner who fails to maintain the stock levels for the petroleum products designated as national strategic stocks, commits an offence and is liable to an administrative penalty of 120% of the inventory cost of the volume released, and in addition shall replenish the stock within 24 hours from the date of issuance of the administrative penalty by the Authority.

(3) A petroleum product off-taker who evacuates the petroleum products designated as national strategic stocks without the authorisation of the Authority, commits an offence and is liable to an administrative penalty of 120% of the inventory cost of the volume evacuated.

(4) A petroleum product off-taker who fails to comply with the conditions of the evacuation authorisation, commits an offence and is liable to an administrative penalty of 120% of the inventory cost of the volume evacuated.

(5) A person who fails to provide information required in these Regulations, commits an offence and is liable to an administrative penalty of NGN5,000,000.

(6) A person who makes a false declaration to the Authority or wilfully furnishes information so required which is in any respect false or insufficient, commits an offence and is liable to an administrative penalty of NGN10,000,000.

(7) A person who fails to comply with any of the provisions, directives given or conditions of any licence, permit or authorisation issued in these Regulations may, in addition to the sanctions, fines and penalties prescribed by the Act, pay to the Authority an administrative penalty not more than USD100,000, and may have the licence, permit or authorisation issued to the person suspended or revoked by the Authority.

21. In these Regulations —

“Act” means the Petroleum Industry Act No.6, 2021 ;

“*bulk storage*” means a facility such as a terminal, depot, refinery, or any other facility designated by the Authority for the storage of petroleum products ;

“*designated petroleum product*” means a petroleum product which by notice issued by the Authority is designated as a national strategic stock ;

“*drawdown*” means the release of a part or whole of the national strategic stock level ;

“*interruption*” or “*shortage*” means any failure in whole or in part to supply or distribute petroleum product or to meet petroleum product demand or sufficiency in any part of Nigeria ;

“*national strategic stocks*” shall have the meaning ascribed to it in the Act ;

“*NGN*” means Nigerian Naira ;

“*operating stock*” means stock in storage facility that is accessible in normal operation or stock required to sustain daily operation and ensure product availability ;

“*petroleum products*” shall have the meaning ascribed to it in the Act ;

“*sold in Nigeria*” means where a petroleum product —

(a) is sold free on board in Nigeria ;

(b) is loaded or offloaded for sale within a wholesale point in Nigeria ; or

(c) transaction emanates, occurs or is concluded in Nigeria ;

“*USD*” means United States Dollars ; and

“*wholesale points*” means the points, such as coastal depots, hinterland depots, jetties, refineries, petrochemicals and processing plants including liquified natural gas processing plants, free on-board products measurement points and other points of aggregation that may be determined by the Authority, where petroleum products or gas products exist or are sold in bulk.

22. These Regulations may be cited as the National Strategic Stocks Regulations, 2023. Citation

Made at Abuja this 14th day of March, 2023.

ENGR. FAROUK AHMED
Authority Chief Executive
Nigerian Midstream and Downstream
Petroleum Regulatory Authority